Previous references.
do 50-07 Ss 1-2 B Aug 07

Later references.

1910.

(Gen. Fin)

File No. 488-10

Serial Nos. 3 to 6, 7(a), 9, 11, 13 to 18, 18(a) to (f), & 19 to 34

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 3 to 6, 7(a), 9, 11, 13 to 18, 18(a) to (f) & 19 to 34.

Part B. for July

SUBJECT.

Re management of the properties mortgaged to Govt by the late Bakshi Basappaji urs towards the loan granted from Govt.

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3. From the Dy Commr, Mysore District. No 20 Dy 7.7.11.
Requests for reasons assigned and explained that the Dy Commr, Hassan Dt, may be directed urgently to credit the amount of Sandal revenue due to the Inamdar from the Tharagadale & other villages in the Hassan Dt and is understood that a prohibitory notice has been issued by the Sub judge of Mysore against the Bakshi's heirs from receiving payment of Rs 14000/- or thereabouts, from either the Conservator of Forests or the District Treasury officer, Hassan, being the amount of Sandalwood revenues.

G. R. S. 58

4. From the Dy Commr, Mysore Dt. No 25 Dy 13.7.1911
States that as the Miscellaneous proceedings instituted in the Sub judge's Court is for the attachment of the amount

(Rs 14,000/-) & solicits Sanction of Govt for engaging the services of a competent lawyer to defend the interests of Govt in the suit.

5. To the Dy Commr, Mysore Dt. No 7C468 Dy 2.8.1911.
Sanctions the engagement of the services of the Public Prosecutor to defend the interests

6. To the Conservator of Forests. D.C. Mysore Dt.
7C 505 Dy 3.8.11.
States that the money due to the late Bakshi Basappaji urs by Sandal revenue need not be paid to any other than the Govt inter Govt order.

7(a) To the Dy Commr, Mysore Dt: 7C 839 Dy 24.8.1911.
Forwards a copy of the Govt Advocates opinion in respect of the Case instituted against against Mr Chamappaji urs.

9. From the Dy Commr, Mysore Dt. No 284 Dy 14.12.11.
States that the Case against Mr. Chamappaji urs has been adjourned to 14th Feb 12 and forwards copy of the public prosecutors opinion and solicits that definite instructions maybe issued for defending the interests of Govt and those of Mr. Chamappaji urs in the Civil Court or for effecting a compromise with the parties.

11. From the Dy Commr Mysore Dt. Letter No 310 Dy 26.12.11
Forwards the deed of conveyance executed by Mr. Chamappaji urs in favour of Govt.

13. From the Dy Commr, Mysore Dt. No 340 Dy 17.1.12.
Solicits that instructions for defending the interests of Govt in the Case instituted against Mr. Chamappaji urs by Jois Thirumalachar and another by Singamma may be furnished at an early date.

To the D.C. Mysore dt. No [illegible]
Asks him to get the cases adjourned till he gets instructions from Govt & to submit a copy of Singamma's document.

From the Dy Commr, Mysore dt. No 416 dy 20.2.12
Forwards a copy of the mortgage deed executed in favour of Singamma and states that the case Singamma vs Mr Chamappaji Urs & others has been adjourned to 20th March and solicit instructions.

To the Dy Commr, Mysore. No H 3405 dy 23.2.12
Requests him to forward a copy of the deed obtained from the Sub Registrar's office, if necessary, and to furnish definite information as to whether Hadjana lands have been mortgaged to Singamma or not and a correct specification of the exact items of the properties mortgaged to Singamma.

From the Dy Commr, Mysore dt. No 428 dy 28.2.12
Submits a copy of the mortgage deed executed by the late Mr Bakshi Basappaji Urs & his son Mr Chamappaji Urs and states that lands ~~that~~ in the Hareyala village in the Gundlupet Taluk and those in the Hadajana village in the Mysore Taluk do not seem to have been mortgaged to Singamma.

7 From the Dy Commr, Mysore dt. No 429 dy 29.2.12
states that the case of Jois vs Mr A. Chamappaji Urs stands posted to the 26.3.12 & requests early instructions.

18. To the Dy Commr, Mysore dt. No H 3565 dy 4.3.12
Requests him to forward the assignment deeds obtained by Mr. Sitarama Rao from the creditors of the late Mr. Bakshi Basappaji Urs.

18 (a) From the Dy Commr, Mysore dt. No 437 dy 5.3.12
Forwards the assignment deeds etc obtained from Mr. D. Sitarama Rao.

18 (b)

8(c) To the Dy Commr, Mysore Dt. No H 3827 Dy 12.3.12

Informs that the proceedings may be contested, that if parties come to reasonable terms, compromises may be eventually entered into and that ~~only~~ the only reasonable terms that Govt would offer as a compromise are those which were originally offered by Mr. Sitarama Rao.

8(d) From the Dy Commr, Mysore Dt. No 469 Dy 16.3.12.

States that a copy of Sl No 20 has been sent to the public prosecutor, Mysore; for taking needful action accordingly, submits for approval & return the written statement prepared by the public prosecutor for being filed in the Court on the 20th Mar 2 and solicits early instructions as to the ~~Cause~~ Course to be adopted in the Case instituted by Jois Thirumalachar.

18(e) To the D.C. Mysore Dt. No H 3931 Dy 18.3.12

Returns duly approved the written statement proposed to be filed in connection with Singamma's suit and promises early instructions on Thirumala Jois's suit.

8(f) To D.C. Mysore. No H 4009 Dy 23.3.12

Directing that the public prosecutor may be instructed to contest the case instituted by ~~Jois~~ Thirumal Jois and stating that Govt would not yet withdraw the terms of compromise which were originally offered by Mr. Sitarama Rao.

19. From the offg. Dy Commr, Mysore Dt.
No 525 Dy 19.4.12

Solicits instructions in respect of furnishing information called for by plaintiff in the case instituted by Singamma against Mr. Chamappaji Urs & the Govt & adjourned to 28.5.13.

GENERAL AND REVENUE SECRETARIAT.

(Gen Fin)

NOTES.

File No. 488-10

FILE HEADING.

re Management of the properties mortgaged to Govt by the late Bakshi Basappaji Urs. towards the loan granted from Govt.

From The Dy Comr. Mysore Dt.

No. 20. Dated 7-7-1911 Received 9-7-1911

Diary No. 111.	Enclos.	Spare Copies	Serial No. 3

BRIEF ABSTRACT OF LETTER.

Requests for reasons assigned and explained that the Deputy Commissioner, Hassan Dt may be directed urgently to credit the amount of sandal revenue due to the Brandar on the Thirugadale and other villages in the Hassan Dt as it is

NOTES AND ORDERS.

understood that a prohibitory notice has been issued by the Sub Judge of Mysore against the Bakshi's heirs from receiving payment of Rs 14000/- on three bonds from either the Conservator of Forests or the Dt Treasury Officer Hassan of being the amount of sandal revenue

Notes—First sheet

GPB—15,000—24-4-09.

G. R. S. 12]
General and Revenue Secretariat.

File No. 488 of 1910

2

Serial No.

4

From the Deputy Commissioner. Mysore. Dt. No. 25 dy 13-7-1911.

~~For~~ States that as the miscellaneous proceedings instituted in the Sub-Judges Court is for the ~~[illegible]~~ attachment of the amount (Rs 14000) ~~&~~ solicits sanction of Govt for engaging the services of a competent lawyer to defend the interests of Govt in the suit.

S

1) In Go. No. Fl 2149-54 / 127-08 dy 10-11-1908. the properties of the late Bakshi Bassappaji Hs were ordered to be taken over under Govt management.

2 The Dy Comr Mysore. Complains that the Hassan Dt, Dy Comr has not been furnishing him information for his several communications in respect of the accounts etc of the Bakshis villages situated in his ~~[illegible]~~ District.

3 The Dy Comr Mysore desires that urgent orders be issued to the Dy Comr Hassan Dt to credit the amount of sandal revenue in question in adjustment of the loan due to Govt.

4 According to the information of the Mysore Dy Comr the sandal revenue due to the late Bakshi from his Inam villages situated in the Hassan Dt has been proceeded against by one of the creditors of the late Bakshi. & the accumulated income from that source is

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

estimated to be Rs 14000/-

5 Dy Comr. (Mysore) solicits permission of Govt to engage a competent lawyer to defend the interests of Govt.

6 According to the decree awarded by the Chief Judge the execution of the ~~decree~~ decree can only be "against such assets of the Estate of the late Bakshi Bassappaji Urs as may be in the possession of the Defendant". Mr Chamappaji Urs.

7 May this be referred to Br III for opinion?

Sub'd.

N-36
31/7/1911 Mark-eg

8 I think the proof of the Chief Judge is clear the Execution can proceed only against the properties in possession of Chamappaji Urs & the Sandal Revenue cannot be considered to be in his hands at all for attachment. Again the Gn raised by the Dy Fr Mysore to Why these revenues were not credited when & as they fell due is very pertinent. A copy of the Dy Fr Mysore's letter may be sent to D. C. Hassan for reply in detail. Is not clear how the Sub Judge issued the prohibitory order & why he did not serve that order on the Dy Fr Mysore.

NOTE—Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

G. 7. File No. 488 of 1910.

Serial No.

~~[illegible]~~ The Public Prosecutor Myrre may be asked to defend the Suit. Will [illegible] favor of remarks.

[illegible] 31.7.11

J 12

Subd
SN
1.8.11

9 (1) A lawyer may be appointed at once to defend the Suit on behalf of the Govt.

10 (2) It is seen* that the decree in question was obtained on two promotes and was passed against the defendant to the Extent of the property of his late father inherited by him. There is therefore no charge against the property in favour of the Creditor. If the Govt have already got a lien, they will have priority but ~~in this case~~ we are now concerned only with the right to attach a sum of money. The prohibitory notice forbids the payment to the defendant but this does not, I think, prevent the Govt from appropriating it towards debts due to itself. The Dy Commr of Hassan may be asked to take action in this direction. It is suggested that the

[*: from the references put up which are not full and to call which there is no time - the file being urgent]
SA

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. 488 of 1910-11

5

Serial No.

Govt Advocate be also Consulted.
[This may be done after the order about engaging a lawyer issues].

To Br II

1/8/11

Submitted
MMK-25
1/8

12 Pr Imp of Sanctg the Engagement of the Public Prosecutor to defend the Case
Other forwarded to the Govt Advocate U.O. for favor of Opinion.

~~[illegible]~~

[illegible] Nara Simhalla
~~[illegible]~~

1.8.11.

Draft Subd
N.36
1/8/11.
F.C. Secy)

1.8.11.

13. Issue at once. Then obtain Govt Advocate's opinion (Immediate) and address Dy Commr Hassan very early as suggested by Branch III

Asst Secy Fin)

1/8

14. In the meantime write D.O's to Conservator of Forests & Dy Commr Hassan warning them of the facts ~~& requesting that no payts should be made to the p~~

1/8

1.8.11

Note – Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. 488 of 1910-11.

6.

Serial No.

5 G.O. No. Fl 468-Dy 2/8/1911 To the Dy Comr Mysore Dt
97 488-10-5

Sanctions the engagement of the Services of the Public Prosecutor to defend to the interests of Govt in the case against Mr Chamappaji Ms.

15 Draft D.O. Submitted for approval
N-36
2/8/1911 16 Fl Secy before issue.

2.8.11

17 Please rewrite the first part in the lines indicated & issue.
M
2/8

18 Revised fl at once
2.8.11

19 Revised fair draft Submitted for approval
N-36
2/8/1911

Issue at once
2.8.11

6 To the Conservator of Forests
" D.C. Mysore Dt.
Fl 505 of 3.8.11
States that the money due to the late Bakshi Basappaji Wd by Sandal Revenue need not be paid to any other than the Govt: with Govt: Orders.

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

Gen Fin File No. 488 of 1910-11

Serial No.

No H 38
of 19-8-11
with 1 collector & 1 pte

20 Forwarded to the Government Advocate U.O. for favour of opinion.

By Order
[illegible]
19th August 1911. For Financial Secy

U.O. No. 11

II
22/8/11

§ 52. New Code of Civil Procedure -

21 Where a money decree is passed against a ~~person~~ party as the legal representative of a deceased person and there is a direction in the decree that the money should be paid out of the property of the deceased, the decree may be executed by the attachment & sale of such property.

22) So far as the judgt. debtor is concerned he can be proceeded against personally only to the extent to which he has failed to apply the assets of the deceased that had come into his hands -

23) Being only a money decree until a valid attachment is legally placed, the judgt. creditor does not get any lien over the property. If there is a

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

General and Revenue Secretariat.

Gen Fin File No. 488 of 1910-11

Serial No.

Subsisting lien in favor of a third party before the attachment placed thereupon at the instance of the Judgt. Creditor, such third party is entitled to priority.

24) If therefore Govt. had, long before the date of attachment, become the purchaser of the Estate of the deceased, & if in the Course of Govt. management the sandalwood revenue that accrued from the said property had been appro-priated by Govt. as owners thereof, no benefit will accrue to the Jngt. Cr. by reason of the attachment as on the date of it, it was not the property of the deceased.

25) The file is incomplete & I cannot verify the statement of the Dy. Comr. of Mysore contained in his letter that the Estate of the deceased is being managed by Govt. as "purchaser".

paras 5 & 6 of letter no 20 dy 7.7.11

426) Under any circumstance the claim of Govt. to the

NOTE—Contn. sheet.

GPB—5,000—26-6-11

G. R. S. 12]

General and Revenue Secretariat. | Gen Fin File No. 488 of 1910-11

Serial No.

amount in question & the non-liability thereof to attachment & sale at the instance of the Judgt. Creditor will, I am sure, be brought to the notice of the Sub Judge of Mysore, on the date of hearing by the Public Prosecutor of Mysore who has been engaged to represent Govt.

5.27) The Dy. Comr. of Mysore has not been served with any prohibitory notice because

1st ly - he is not a party to the suit & his representative capacity has not been recognised either in the course of the suit or execution proceedings

& 2nd ly he is not the person in whose hands the money in question is sought to be attached.

B Doraswamy Jr
Govt. advocate

22-8-1911-

Subd. Hovsd 22/8 [illegible] 28) Please put up a draft to D.C. Mysore following the above opinion

1/23-8/11

NOTE—Contn. sheet.

GPB—5,000—26-6-11

Serial No.

Sub^d. 29) In his letter No. 25 dy 13/7/1911 the Dy Com^r. asked for permission to engage the services of a competent lawyer to protect the interests of Govt. This was sanctioned vide Govt order dy 2/8/1911.

Draft Sub^d. for orders -

N. 36
23/8/1911.

Issued [illegible]

(1) To. The Deputy Commissioner, Mysore Dt.
No. H 839 dy 24/8/1911.

Forwards a copy of the Govt Advocate opinion in respect of the case instituted against Mr. Chamappaji Urs -

From. The Deputy Commissioner. Mysore Dt.
No. 284 dy 14.12.1911. States that the case against Mr Chamappaji Urs has been adjourned to 14th Feb 1912 and forwards copy of the Public Prosecutor's opinion and solicits that definite instructions may be issued for defending the interests of Govt and those of Mr Chamappaji Urs in the Civil Court or for effecting a compromise with the parties.

30) Sub^d. If approved, this may be referred to the Govt Advocate in the first instance

NOTE — Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

G. 7 ~~File~~ No. 488 of 1910.

11

Serial No.

for favour of his noting his opinion ~~& instructions in regard to the conduct of the case~~ –

N. 36
20/12/1911 31) I don't think all the papers are here. Please put up the file containing Mr S. Narayanaraw's (late Govt Advocate) opinion on Sengamma's case also & send the whole file marked "Immediate" to the Govt Advocate for opinion early

RR
20.12.11

20/12/11

32) Sub: G.7. 127-08 (sl 26 ... 42.) Containing Mr Narayanaraw's opinion is put up herewith

Q

Immediate

No 7.94
of 21-12-11
with 3 collections
& 1 file

Forwarded to the Govt Advocate for favour of his opinion ~~[illegible]~~

By order

[illegible]
for H Secretary

N. 36
21/12/1911
RR
21.12.11

P.T.O

NOTE — Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

7 File No. 488 of 1910.

Serial No.	
11	From the Deputy Comr., Mysore Dt. Letter No. 310 dt. 26. 12. 1911.
	Forwards the [illegible] executed by Mr. Champagne [illegible] Govt.
Inv Fl 99 dt 3-1-1912	Forwarded unofficially to the Govt Advocate, in continuation of the U. O. No. 96 dt 23/12/1911.
	By order [illegible] For Fl Secretary
	Y. 36 3/1/1912 RR 3.1.12
	Seen. Returned with thanks. Advocate-Commr for Govt. adv.
	5-1-1912 —

Serial No.

G.O. 28
D/22 12 11
II
22/12 Mr

33) I do not find in the file sent to me
(1) G.O. no. Fl 861.7. Gl. Fin: 29-05
dated 21st August 1907
& (2) Copy of the deed executed by
Mr. Chamappaji Urs in favor
of govt. on 3.3.1909.
The file may be sent back to me, with
the papers noted above, as early as practicable.

Advrapwamiyar
Govt. advocate.

22nd Decr 1911.

No Fl 96
Dy 23-12-11
with 5 collections & 1 file

34) Returned to the Government Advoc
with Collection containing G.O. No: Fl 861-7-
Gen Fin 29-05 dated the 21st August 1907
and with the intimation that the deed execu
by Mr. Chamappaji Urs has been sent for
from the Dy Commissioner, Mysore Dist & wil
be sent to him immediately on receipt.

[signature]
23rd December 1911 For Financial Secy

II
G.O. 30
Dy. 5-1-1912
Mr

35) The original deed executed by Mr.
Chamappaji Urs in favor of govt
on 3.3.1909 was recd on 4.1.1912 —

NOTE — Contn. sheet.

GPB—50,000—12-8-10

Serial No.

I have carefully perused the said document & all the papers connected with the loan sanctioned in G.O. No Fl 861. 7. Genl Fl 29.05 dated 21.8.07.

Singamma's Suit.

36) The first point that arises for consideration in Singamma's suit is "whether all or any of the properties hypothecated to Singamma on 12.7.1900 are subject to any prior encumbrances? if so, what are the respective rights of Singamma & govt. with respect to (1) the items - not previously encumbered & (2) the items subject to prior encumbrances".

The Dy. Comr. of Mysore gives a list of properties hypothecated to Singamma & they are 12 in number of these items 10 & 12 viz Hereyala lands in Gundlepet Taluk & Hadjana lands in Nyone Taluk are stated to be not subject to any prior encumbrances. In the note appended to the Dy. Comr's letter there is a marginal note in red ink to the effect that it is doubtful

his letter no 788 of 7.4.10.

[illegible] information [illegible] since been found [illegible] be [illegible] [illegible] [illegible] have not been [illegible] to [illegible]

NOTE—Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

File No. 188 of 1910

Serial No.

whether item no 12 (viz lands in Hadjana) is mortgaged to Singamma. This is a matter which the D.t Coll.r of Mysore may be requested to verify by a reference to the original document which is now filed in Court. Assuming that items 10 & 12 are not previously mortgaged & that Singamma has got the rights of a first mortgagee on them, I do not see how ~~good~~ the fact that Govt. have purchased the right, title & interest of the prior mortgagees & obtained from the surviving mortgagor the deed of the 3rd March 1909 will avail them, ~~by reason of the~~ to claim, by reason thereof, the right of priority against Singamma so far as these items are concerned. Coming next to the remaining 10 items I find, from a perusal of the papers, that there were 8 secured creditors to whom these 10 items had been mortgaged between the 31st Decr. 1898 & 20th June 1900 & that the aggregate amount due to them including interest calculated

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

General and Revenue Secretariat.

G.7 File No. 488 of 1910.

Serial No.

up to the date of settlement of their debts by the govt. agent was, in round sum, ~~[illegible]~~ 1,80,000/Rs. By means of a composition entered into with them their debts were satisfied in full by payment to them of Rs 93,125-0-0 & in consideration of it their mortgage interests in the properties mortgaged to them were assigned to govt.—

37) Sometime later i.e. on 3.3.1909 a doct. was executed by Mr. Chamappaji Urs conveying all the properties belonging to the Baksh's family, including the 12 items above refd. to, to govt.— The terms of the govt. order of 21.8.07 & of the doct. itself executed in pursuance thereof leave no room to doubt that it was not the intention of govt. to become absolute owners of the properties refd. to therein. In fact there is a clause in the deed making it obligatory on the part of govt. to reconvey the property, freed from liability, after the debt due to govt. is fully discharged in the manner agreed upon. There can be

NOTE—Contn. sheet.

GPB—5,000—26-6-11

Serial No.

no doubt that the doc. in question is a deed of mortgage. I am fortified in this view by the following note made by the late Govt. advocate when the draft of the G.O. dated 21.8.07 was sent to him. He noted thus: —

"The draft order is comprehensive enough. A sale deed with a clause to reconvey the property sold when the purchase money is repaid as stipulated viz by the appropriation of the produce or income thereof really amounts to a mortgage & no more. There need be no difficulty at all in this matter".

But in my opinion, so far as the suit of Singanna is concerned it is immaterial whether Govt. are considered mortgagees or purchasers of the equity of redemption. In either case, whether it is a sale or mortgage it can only be subject to the right of Singanna under a prior hypothecation deed & she will be entitled to proceed against the

GPB—5,000—26-6-11

Equity of redemption in whomsoever hands it may be.

(38) Therefore the most important point for consideration is whether by reason of Govt. having paid off the prior mortgage debts & taken assignments of them they will not be entitled to step into the shoes of the mortgagees whose securities have been assigned. My answer is they will be. The principle of subrogation by payment to the prior encumbrancer rests always on the question of the presumption of intention viz whether it was the intention to keep the prior mortgage alive as a shield against the puisne mortgagee or simply to discharge a prior mortgage debt & nothing more. That the doctrine of subrogation is inapplicable in the case of a mere stranger or volunteer who has simply paid the debt of another without any assignment or agreement for subrogation, the person that pays not being

Serial No.

under any obligation to make the payment & not being compelled to do so for the preservation of any rights or property of his own is true enough but nevertheless, there can be no doubt whatever that in the present instance it was the intention of Govt. to exercise the right of subrogation when the prior mortgagees were paid off and assignments of their debts & securities were taken. Far from there being any intention to extinguish the previous mortgage debts the unmistakable intention ~~of Govt.~~ to keep them alive for the benefit of Govt. is manifest. As a matter of fact Srigamma was informed in reply to her lawyer's notice in so many words that Govt. as assignees of the prior mortgages of the property mortgaged to her were entitled to get 1,79,999 Rs from the said properties.

(20) If then Govt. can be subrogated, what will be the nature of the

GPB—5,000—26-6-11

Serial No.

decree that Sriganna may obtain in this suit and what will be the effect of it?

40) I agree with the Public Pros.r of Mysore that there is no use in contesting either the genuineness or the validity of her mortgage deed. Our plea may well be confined to an assertion of our right to subrogation so far as the prior mortgages paid off by Govt. are concerned and to insist upon a decree being passed only against the hypothecated properties subject to such prior mortgages, care being taken to clearly specify that the whole of the amount due for principal & interest on the several prior mortgages should be made payable to Govt. in case Sriganna offers & is permitted to redeem.

The equity of redemption is worth nothing since it has been ascertained that the market value of the hypothecated properties is less than the amount of principal & interest due

GPB—5,000—26-6-11

Serial No.

on the first mortgages. No prudent stranger will come forward to bid for & purchase the equity of redemption. I am sure that Sriganna will never be able to find funds for freeing the ~~prior~~ properties from the prior heavy burden. The result will be, that in case she becomes the purchaser she will have to wait for at least half a century before the subrogated claim of Govt. is fully discharged. With the permission of ~~Govt. the Govt.~~ the Court the agent of Govt. may also bid at the sale upto Rs 4312-0-0, the amount which Govt. were prepared to pay Sriganna in full satisfaction of her mortgage debt, subject of course to their prior rights under the previous mortgages paid off. If Govt. happen to be the highest bidder, the amount of the ~~as~~ bid will ~~also~~ go towards the liquidation of the decreed mortgage debt of Sriganna — If the Govt. agent buys the property it will be kept in trust for the mortgagor

GPB—5,000—26-6-11

Serial No.

& his heirs & there is no fear that the properties will pass out of the hands of the Bakshi's family for ever.

41) I am inclined to think that Singamma has been advised to file this suit in the hope of possibly succeeding in her contention that

(1) Govt. will not be entitled to precedence by reason of the payment of the previous mortgage debts,

& (2) if Govt. be entitled, they will have a lien only to the extent of the amount actually paid.

42) If in both or either of these contentions she succeeds the equity of redemption will fetch, if sold, the whole of her claim. If on the other hand she fails I am sure she will come to terms & then there is time enough to compromise the case with her. Any suggestion of a compromise at this stage will ~~must~~ induce her to believe that we are feeling our position weak & possibly she may try to dictate

NOTE—Contn. sheet.

GPB—5,000—26-6-11

Serial No.

her own terms. I am almost certain she will not accept Rs 4312-0-0 in full settlement of her claim, as she knows perfectly well she could have got the said sum, even before she went to Court & put herself to heavy expenses, if she had cared to.

43) I presume that the personal remedy against Mr. Chamappaji Urs is barred.

Jois Tirumalachar's Execution Case.

44) In this case the question as to whether the document of 3.3.1909 executed by Mr. Chamappaji Urs in favor of govt. is a sale deed or a mortgage deed is of some importance.

45) If it is construed as a deed of sale, then since there is no subsisting interest on the date of attachment, of the judgt. debtor in the properties attached, the judgt. creditor's attachment placed on them will be raised on the claim of govt. —

46) But for the reasons given above I agree in the view that the

Note—Contn. sheet.

GPB—50,000—18-5-08

Serial No.

document is only a deed of mortgage. However the position of the Jois is, on that account, no better than that of Singanna — In fact it is worse. If he were to buy the equity of redemption he will have to wait till the claims of

(1) of the first mortgagees whose debts are assigned over to Govt.

(2) of Singanna ~~& mortgagee~~ in the decree which she may obtain in the suit above refd to.

& (3) of Govt. under the deed of 3.3.1909 in respect of the unsecured personal debts of the late Bakshi discharged by Govt.

are all satisfied. If in the meantime the equity of redemption is brought to sale by Singanna in execution of her decree & sold, the Jois will have nothing to fall back upon. The properties are worth Rs 1,65,000; whereas the secured debts alone come up to two lacs. What with ~~the~~ the

GPB—50,000—18-5-08

Serial No.

Equity of redemption be worth?.

47. But still there is no harm in asking the Jois to fix a certain sum the payment of which will totally absolve the judgt. debtor from liability under the decree - If it is not appreciably larger than the amount Mr. Sitaramachar was willing to pay at the time he settled the claims of other creditors, govt. may take it into consideration & satisfy the Jois claim amicably -

Advocate

5th Jan 1912 - Govt. advocate

(48) Submitted for orders with a draft -

N. 36

6/1/1912

49 [illegible] The above notes clearly discusses all the points of the case & the action suggested may perhaps well be taken - A draft forwarding a copy of the above note with the intn that Jois agree with the views expressed therein & an agreeable practice being taken as therein suggested

NOTE—Contn. sheet.

Serial No.

Issued - This may be approved

Dewan)

6.1.12

May be kept till Dewan's return from Delhi.

6.1.12

13 From The Dy Comr Mysore Dt
No 340 dy 17-1-1912

Solicits that instructions for defending the interests of Govt in the case instituted against Mr Chamappaji Hrs by Jois Thirumalachar and another by Singamma may be furnished at [illegible]

50) The case instituted by Singamma stands posted to the 14th proximo. (Feb 14th)

51) Another case by Jois Thirumalachar for the attachement of the immoveable properties of the late Mr Bakshi Basappaji Hrs in the Mysore Dt stands posted to the 20th proximo.

Subd for orders 52) It is proposed to send a copy of the Govt advocate's opinion to the D.C. and to ask him to act according to it. As the first case comes off on the 14th February, ~~[illegible]~~ and it seems to be enough if instructions

N-36
20/1/1912

Note—Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

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instructions are given to the D. C. early in Feby

53) RR 20.1.12 Yes. Keep it till the Dewans rep & then submit.

[illegible]

14611 30.1.12

Dewan)
54) Please request Dy Cr to ask for an adjournment on the ground that the final instructions of Govt are awaited

55) 2 Please call for a copy of Sinjamma's document. It has been filed in court I suppose & the easiest way to be to obtain it from the Court. After this

56) 3 Submit to the 2d Councillor for the favour of his minute on the case as it stands.

[illegible] 8 Feb 12

57) To Br II for issue of orders immediately (as directed by the Dewan)

[illegible]
8/2/12 Draft [illegible]

Note—Contn. sheet.

GPB—50,000—12-8-10

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General and Revenue Secretariat.

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27

Serial No.

58) Draft Subd
N-36
8/2 RR 8-2-12

Issued 8/2/12 RR

Issued 8-2-12

To

14 The D.C., Mysore Dt.
No: H 3113 Dt 8-2-12
Asks him to get the cases adjourned till he gets instructions from Govt. and to submit a copy of Singamma's document.

59) Subd. to the 2nd or as directed by the Dewan. Singamma's document will be put up after it's recd.
RR.
9-2-12

15 From the Dy Comr. Mysore Dt.
No. 414 Dt 20-2-1912.
Forwards a copy of the mortgage deed executed in favour of Singamma and states that the Case: Singamma vs Mr Chamappaji Ulu & others has been adjourned to 20th March and solicits

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

instructions.

60) A draft as per personal orders of the Assistant Secretary Mr. Hiriyannaiah is put up herewith.

N-36
23/2

28 Sag
23/2/12

16. To the Dy Comr. Mysore
No. H 340. 23-2-1912.

Requests him to forward a copy of the deed obtained from the Sub Reg. Office, if necessary, and to furnish definite information as to whether Hadjna lands have been mortgaged to Singam or not and a correct specification of the exact items of the properties mortgaged to Singamma.

17. From the Dy Comr, Mysore Dt.
No. 428 dy 28-2-1912. Submits a copy of the mortgage deed executed by the [illegible] Basappaji [illegible] Mr [illegible] [illegible]; and states that lands in the Hoey [illegible] in the Gundulpet and those in the Hadajana village in the [illegible] do not seem to have been mortgaged [illegible]

Submitted.

N-36
1/3/1912

NOTE—Contn. sheet.

Serial No.

Subd by "C"
1/3/12

(1) There is no doubt that the transaction amounts to a mortgage of the properties to Govt. though it is in the form of a Conditional Sale

(2) The other question is whether Govt. when it paid off previous mortgages placed itself in the position of the mortgagees so as to claim priority over Sugamma. If it were not for ~~the~~ a clear (express or implied reservation) no such subrogation can be assumed at all. In one of the papers it is stated that

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Govt. took an assignment of the Mortgages which it paid off. This matter has to be verified. If necessary, call for originals or copies of such assignments in respect all the items of property included in Sugamma's Mortgage.

4/3/12 [signature]

Bring up in person please for instructions [The draft has to issue today]

4/3/12 [signature]

63) Please put up draft at once

4/3/12 [signature]

Draft Subd.

N-36
4/3

[signature]

4/3/12

~~To the Dy Comr. Mysore Dt~~
~~K. R 3565 & 4-3-1912~~

NOTE—Contn. sheet.

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18. From the Deputy Commissioner, Mysore Dt. No. 429 of 29. 2. 1912.

states that the case of Jois vs. Mr A C Chamarajah Jr. this stands posted to the 26. 3. 191 and requests early instructions.

64) Asstt Secretary. What has been done about this. Please talk to me.

Intd. C. S. B.
4/3.

3098. 65) The previous papers on the subject are now before the 1st Councillor for favour of his minute in regard to the claims urged by Sungamma, as per orders of the Dewan.

N-36

66) 4/3 [illegible] Subd to the 1st Councillor in Contn

4-3-12

67) I have ~~posted~~ returned the file today for some further confn. (to Asstt Secy Judl &c)

4/3/12 [illegible]

[illegible]

NOTE—Contn. sheet.

Serial No.

To The Dy Comr. Mysore Dt. No. H 3565 dy 4/3/1912
Requests him to forward the assignment deeds obtained by Mr Sch... from the creditors of the late Mr Bakshi Basappaji Urs.

From the Dy Comr. Mysore Dt.
No. 437 dy 5/3/1912
Forwards the assignment deeds etc obtained from Mr D S... R.

Submitted.

N-36
7/3

68) It is clear from the terms of the deeds of assignment taken by Govt when paying off debts, that it has obtained all the rights of the previous mortgagees. Singma can therefore proceed against the property after the prior claim of Govt are satisfied.

69) The proceedings may be contested by asserting rights of ~~fro~~ mortgage and rights of priority obtained by payment

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of previous mortgages, and if the parties come to reasonable terms, compromises may be eventually entered into.

8/3/12

70)

I agree with the Commissioner. The case should be contested. The only reasonable terms that Govt offer as a compromise are those which were originally offered by Mr Stevenson Rao. We can decline even this, but I am still inclining to be as equitable & lenient as Govt Attorney & Mr Stevenson Rao originally were.

To G. F. Lechin. P.T.O.

NOTE.—Contn. sheet.

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71) Orders to be issued immediately as the cases are posted to the 8th & 21st inst respy

9/3/12

72) Draft Subd as approved by Mr Hirig N-36 ~~[illegible]~~ anniya.

11/3

(pulsecy)

11.3.12

Issue

11/3/12

11.3.12

20 To the Dy. Commr Mysore Dt. No. H 3827 d: 12-3-12. Informs ~~as per order above~~ that the Proceedings may be contested, that if parties come to reasonable terms, compromises may be eventually entered into and that the only reasonable terms that Govt would offer as a compromise are those which were originally offered by Mr Sitarama Rao.

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

G. F. File No. 488 of 1910 11

Serial No. 21

From the Dy. Commr. Mysore Dt. No. 469 d: 16-3-12 States that a copy of Sl. No 20 has been sent to the Public Prosecutor Mysore for taking needful action accordingly, Submits for approval and return the written statement prepared by the Public Prosecutor for being filed in the court on the 20th March 1912 and solicits early instructions as to the course to be adopted in the case instituted by Jois Tommalachar, ~~which stands~~.

73) The written statement has to be filed in the court on the 20th March 12

74) The case instituted by Jois Tommalachar stands posted to 26th March 1912

Subd. for orders.

DM 247
18/3/12

75) As regards the written statement which is proposed to be filed on the 20th, it is in accordance with the instructions of Govt. contained in

NOTE—Contn. sheet.

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General and Revenue Secretariat.

G. F. File No. 488 of 1910-11.

Serial No.

Letter No. 3827 of 12.3.12, a copy of which was been furnished to the Public Prosecutor. The written statement may therefore be approved & returned to the D.C. Draft put up for approval.

76) ~~Regarding~~ Tirumala Jois's case, is posted for hearing on the 26th inst ~~[illegible]~~ ~~[illegible]~~. The file was being worked up by the A. secy, Br. III, under the first o's instructions. If approved, this will be sent to him,

RR
18/3/12

77) The written statement appears to be in accordance with the 1st Councillor's order. May be approved. Draft returning written statement after approval put up.

Secy.)

Br.
18.3.12.

78) Issue a tunce — Why was not Tjois' case dealt with Earlier please expedite

[illegible]
18/3/12

[illegible]
18/3/12

[illegible]
18/3/12

[illegible]

NOTE — Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

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Serial No.

To

The D. C., Mysore Dt.

No. H. 3931 97 18.3.12.

Returns duly approved the written Statement proposed to be filed in Connection with Singamma's suit and promises early instructions on Tirumala Rois's suit.

79) This file was being dealt with by the Asst. Secy. Br. III, Mr. S. Hiriyannaiya. Mr. Hiriyannaiya is now on leave and Mr. B. Narainsami Iyengar is looking after his duties. The file may therefore be sent to the latter.

80) The instructions to be given with regard to Tirumala Rois's suit do not seem to be different from those in Connection with Singamma. The ~~Govt.~~ Govt. advocate says that the position of the Govt. is stronger against T. Rois than against Singamma and he suggests that T. Rois may be asked to fix a sum, the payment of which will totally absolve the judgment debtor from all liability under the decree. The 1st D. has stated, with ref. to Singamma, that the Pregs: may be contested by asserting

NOTE—Contn. sheet.

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General and Revenue Secretariat.

G7 File No. 488 of 1910-11

Serial No.

The Dewan agrees with this opinion.

asserting rights of wige and rights of priority and that a compromise may be effected if the parties come to reasonable terms. This appears to be also what has got to be done with Tirumala Jois.

RR
20.3.12.

~~Should a draft similar~~

81) From what the full Advocate says the position of Govt is stronger against Jois than in Singamma's case & as such may contest the suit. The Pub Prosecutor may however be given the discretion of compounding the case at a sum not exceeding what was offered by Mr Sitaram Rao ~~for~~ To the Asst Secy Br III

Jmis 121

K
20.3.12

Subd:
SN
20/3/12

82) The attention of the Dy. com. may be invited to our letter no Fl. 3931 dt 18-3-12 and he may be asked to instruct the Public Prosecutor to contest the case of Jois Tirumala Char on the same lines as those adopted in Singamma's case

no. 20

Secy.

Bn
20.3.12

NOTE – Contn. sheet.

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01

G. R. S. 12]
General and Revenue Secretariat.

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Serial No.

83) Please prepare draft similar to that in Sanguinea's case ~~[illegible]~~ Earl

21.3.12

Draft put up.
RR
21.3.12

Deseen)

21.3.12

84) Joi's claim is for about Rs 13000/- but the amount for which Mr Sitaram Rao offered to settle is not traceable from the file. I think the draft may issue

21/3

1st Councillor & Dewan)

21.3.12

85) I agree.

22/3/12

Dewan)

350
22.3.12

86) The draft has been appd by the Dewan Lia. 22/3/12

Issue at once

23.3.12

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. 1886 of 19 10 11

40

Serial No.

To

D. C. Mysore.

Fl. 4009 dy 23.3.12

Directing that the Public Prosec may be instructed to Contest the Case instituted by Jois Dirumalacha and stating that Govt wd not yet withdraw the terms of Compromise wh were originally offered by Govt. Mr Sitaramaka.

Note.

88) As directed by the Dewan in person I arranged to meet the Palace Comptroller and the Public Prosecutor Mysore, who is Conducting the Cases on behalf of the Govt & I went thro' all the previous papers in the Deputy Commr's office relating to the discharge of the late Bhakshi's debts by Mr Sitaramaka in pursuance of the order of 1907. The result of the investigation was Subd to the Dewan in person and was also Communicated to the Palace Comptroller. The Public Prosecutor was with me during the investigation.

89) Singamma Seems to challenge our claim for priority mainly on the grounds that (1) we did not discharge all the Bhakshi's debts as we undertook to do* and that (2) Several

* She Seems to base this recent Contention on a ruling of the Hld High Court

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

of the assignment deeds taken by Mr S. Ram on behalf of Govt have not been registered. Even if the right of priority is conceded on behalf of Govt, she hopes to succeed by asking for the application of the rule of "marshalling of debts" against the Govt. She also seems to think that the 5 Inam villages in Arkalgud taluq which are subject to a prior encumbrance of the nominal value of ~~Rs~~ 35,000/- are really worth more. It may be mentioned here that this encumbrance consists of two debts of equal amounts and that for one of them no assignment deed has been taken by Mr S. Rain.

I have written to the P. P. to investigate the point whether marshalling can be applied in the case of a usufructuary mortgagee
SH
6/4/12

(90) The conclusion may be briefly summed up as follows:—. If the parties viz Singamma and T. Jois come to reasonable terms, well and good. Otherwise if the properties are to be retained for the Bhakshis' family, then the debts should be ~~discharged~~ discharged either by bidding at the auction or direct payment. It would however not do to give up ~~the case at this stage~~ our contention in Singamma's ~~Ca~~ suit at this stage as by so doing we may lead T. Jois also to think that our case is very weak. As it is, he is likely to ~~Co~~ accept reasonable terms.

Office.
Please preserve the rough notes made at Mysore

NOTE—Contn. sheet.

GPB—50,000—12-8-10

6/4/12 SH

S. 12]
ral and Revenue
Secretariat.

File No. 488 of 1910-11

42

Serial No.

To Mr Krishnamachar, Public Prosecutor, Mysore
D.O. No. H4272 dt 6.4.191 . Requests him to consider
whether the rule of 'marshalling of debts. can be
applicable in cases of usufructuary mortgages.

From. B. Krishnamachar - D.O. 236 dt 10.4.1912
States that he would look up the point referred to in
the above D.O. and that the plaintiff has filed a
reply statement asking for further information; Copy enclos

From the Offg. Dy Comr, Mysore Dt.
No. 525 dt 19-4-1912. Solicits instructions
in respect of furnishing information called
by Plaintiff in the case instituted by Singamma against
Mr Chamappaji Urs & the Govt, and ~~[illegible]~~ adjourned to 28/5

The Dy Comr Mysore asks to be informed
whether the information asked for may be
furnished from the records available in his office
and that both the Public Prosecutor & himself
are of opinion that the information should be
furnished as otherwise the Court would draw
an 'adverse inference'.

Subd for orders
[illegible]
22/4

92) There is no harm in
furnishing the information asked for
Except (d) - about the market value

NOTE - Contn. sheet.

GPB—50,000—12-8-10

Serial No.

of the properties as estimated by the Govt. This need not be given unless the ~~Govt~~ Court direct otherwise. Evidently Singamma wants ~~definite information to~~ to know whether she can realise her money by the sale of the Equity of redemption or not.

25/4/12 SH

1st (Cr & Dewan).

322

Q2 All except d may be furnished. The market value is only a matter of opinion for the guidance of Govt in its transactions & cannot help the plff's case.

25/4/12 [signature]

Japee — [The opinion of market value may or may not be correct or reliable] [signature] 4 Dec 1911

26/4/12 SH

Put up draft SH

7/5/12 S.T.O.

959
29.4.12

Office: Where is Mr Sitaraman's report? Dewan wanted to see it. SH

Subd. Mr Sitaraman's reply stating that he [illegible] drawing up a report [illegible] [illegible] at his [illegible] before the Dewan. [illegible]

[illegible] SH

27/4/12

NOTE - Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

G. F. File No. 488 of 1910.

44.

Serial No.

Draft Submitted for approval
N. 36 [illegible] (9)
7/5

2 S Sag
[illegible]
7/5/12

To the Dy. Comr. Mysore No. 4757 Dt 8 5 12
states that information required by the Public Prosecutor may be furnished from the Dy. Comrs office &c.

To the Public Prosecutor Mysore.
No. No 4758 Dt. 8 5 12.

From the Offg. Dy. Comr. Mysore
No. 2 Dt 4-7-12
Forwards copy of the Confidential note prepared by the Public Prosecutor Mysore in re the Suit Singamma ns Govt., for such instructions or orders as the Govt. may be pleased to issue thereon, the case being posted to 8th August 1912.

Subd.
N. 26 [illegible]
8/9/1912

Forwarded to the Govt

NOTE—Contn. sheet.

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G.R.S. 12]
General and Revenue Secretariat.

G. R. File No. 488 of 1910-11. 45

Serial No.

Advocate for favour of a note on the ~~last~~ point raised by the Public Prosecutor.

No 764
d 13-7-12

The file may kindly be regarded as very urgent and Confidential.

B.O.
S. Hanyamaiya
For Secy.

12/7/12

U.O. 3 of 12-13
Dt. 16-7-1912

II
16/7

The point now raised by the Public Prosr. is that, in Singamma's suit, govt. ~~may~~ cannot succeed in their defence that they should be allowed to subrogate, because in the mortgage deed executed in favor of govt. there is an undertaking on the part of govt. to pay off all the previous secured debts including that of Singamma, and failure to discharge this last named debt precludes govt. from relying on the presumption that they intended keeping alive the prior mortgage

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

& holding them as a ~~Shield~~ Shield against her. The Public Pros.r relies on the following authorities in support of his views—

(1) I.L.R 33 Allahabad 101
(2) 20 Madras Law Journal 381
(3) 6 Allahabad Law Journal 549
(4) 27 (?) ~~6~~ All. Weekly notes 85.

2. It may perhaps be useful to examine these authorities & I shall do so in the order in which they are noted above.

(1) I.L.R 33 All 101. – It may be noticed that in this case the judges start with the enunciation of the principle that in all cases where a subsequent purchaser claims priority over a puisne mortgagee by reason of his having discharged a prior mortgage the question is always one of intention, that is whether it was the intention to keep the prior mortgage alive as against the puisne mortgagee. Under the circumstances of the particular case which they had to decide, the judges find as a matter of fact,

Serial No.

that at the time the Sale was effected it was clearly the intention that the prior mortgage would be Extinguished & not kept alive - The terms of the Sale deed & the pleas put forward in the written Statement are availed of, in Expressing the opinion as to the intention to keep alive or Extinguish the first mortgage. It may also be noted that the ratio decidendi of the case is not made to rest on the single circumstance that there was an undertaking to pay off the two subsisting mortgages of which only one was discharged & in Consequence the right of Subrogation could not be availed of Assuming that it was meant to lay down in 33 all 101 that the intention to keep alive the prior mortgage was negatived by reason of the Existence of an ~~Subsequent~~ intermediate undischarged mortgage undertaken to be paid off, what is the principle on which the decision may be said to have been arrived at?

Serial No.

A perusal of the Judgt. seems to suggest that as the Vendee had acted in the payment of the first mortgage as the agent of the mortgagor ~~he~~, in the opinion of the Court he, the Vendee, could not claim the benefit of the payment as against the subsequent mortgagee - but cf a more recent decision of the Allahabad High Court reported in 34 All 102 wherein a similar contention was put forward but rejected by the Court.

(ii). 20 Madras Law Journal 380

In this case the purchaser of 26 items of immoveable properties agreed to pay off a prior mortgage of 13 items ~~of~~ in favor of one C with part of the purchase money & it was so discharged he also agreed to discharge the Pltffs mortgage with the remainder of the purchase money but failed to do so. The judges held that as the facts proved the intention to keep alive the first mortgage as against the prior incumbrancer could not be presumed, as the object of the purchaser was not to keep alive a mortgage against

Serial No.

the prisne encumbrancer but to discharge the prisne encumbrance as well. It was a case in which the presumption of intention to keep alive a prior mortgage & to use it as a shield against a subsequent encumbrancer was held to have been rebutted. But in Sugamma's case there appears to be no need to depend upon any presumption as to the intention of Govt — the intention being quite clear — & consequently it is unnecessary to ~~determine~~ prisne the further point as to whether the promise to pay off Sugamma's mortgage debt also has or has not the effect of rebutting such intention.

(iii) 6 All: Law Journal 549. (1909)
I have not had the benefit of reading this decision as it has not found its way yet into the authorised reports, but the purport of it may be gathered from Ghose on Mortgage p 332 (vol I, 4th Edition) from which I extract the following:—
"It (subrogation) cannot therefore

Serial No.

"be claimed either by the mortgagor "himself or by any person who has "assumed the payment of the mortgage "debt, nor would it seem by a "purchaser who agrees to buy the "property free from Encumbrances & "undertakes to discharge them "all out of the purchase money but "fails to do so (x x 6 A L-9549)" -

But Singamma's Case is different. She can never succeed in urging that Govt. agreed to buy the Bakshi's property free from Encumbrances -

(iv). There remains only the last Case quoted, 27 All: weekly notes 85. This is an obviously incorrect reference, for we have not yet reached the 27th Vol: Possibly the weekly notes of the year 1907 page 85 is meant. If so, I have only to refer to 34 Allahabad 102 where the view expressed in the weekly notes Case is referred to & dissented from -

3. For an expression of the law on the subject of subrogation, I may

NOTE—Contn. sheet.

GPB—50,000—13-5-08

Serial No.

refer to the most recent Case reported in the July number of the ~~Current~~ Current I.L.R Calcutta series (39 Cal 527). The opinion of the Calcutta High Court - accepted by the Privy Council is to the following effect: —

"The presumption is that the subsequent "mortgagee intended to keep alive the "prior mortgage which has been discharged "with the money advanced by him & he "is entitled to use the prior mortgage "as a shield against intermediate "incumbrances - but the presumption "may be rebutted & in each case "we have to look to its own facts & "circumstances in coming to a "conclusion - very slight evidence "may be sufficient to show that the "subsequent mortgagee intended to "keep alive what was certainly "beneficial to him; but the nature "of the two transactions may be dissimilar, "there may be variation as regards "the parties & there may also be "other circumstances which may "lead to a contrary presumption" -

4. Such being the law, the decisions

Serial No.

in which it has been held, on the facts & circumstances of those cases that the right of subrogation does not enure to the benefit of the subsequent mortgagee or vendee, need not deter us from urging the contention of govt. in the present case, the facts & circumstances of which seem to show an ~~unmis~~ unmistakable intention on the part of govt. to keep alive the prior mortgages paid off & to use them as a shield against the inter-mediate undischarged incumbrances.

[illegible]
Govt. adv.

15-7-1912.

G. R. S. 12]

General and Revenue Secretariat.

File No. 488 of 1910

Serial No.

Subd with the Govt. Advocate's opinion.

[illegible] (9)
17/9/12

Please issue at once the draft putting and resubmit file.

[illegible]
28/7/12

22 D.O. 418 dy 22.7.1912.
To. The [illegible] Dy Comr Mysore Dt.

Forwards the copy of the [illegible]
Note on the points raised by the Public Prosecutor and requests him to forward it confidentially to the Public Prosecutor.

Submitted as per orders supra. dy 20/7/1912

[illegible] 36 [illegible] (9)
23/7/1912

Finally personally Subd

to Dewan. File. See note on linked file no 187 of 11-12

[illegible]

NOTE—Contn. sheet.

General and Revenue Secretariat.

File No. 488 of 1910

Serial No.

22

From the Deputy Commissioner, Mysore
No. 36 Dt 2/8/1912

Forwards copy of letter from the [illegible] Mysore [illegible] 9 instructions as to whether he has to oppose the application of the Plaintiff praying for the sale of all the ~~immovable~~ immovable [illegible] of the late Mr. Bakshi Basuppaji Ulu in the civil suit instituted by Jois Thimmaraiah against fort.

Submitted for orders as personally directed

N-36 [illegible] (9)
6/8/1912

(1) Issue draft to the Hussain Secy appd by Dewan today

(2) The draft to the D. C. Mysore

Should wait for some time for a reply to the above Communication.

[illegible]

8/8/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Copy of rough draft (55)

D.O.No. 705/En2

Bangalore,
8th August 1912.

My dear Sir,

I herewith enclose a copy of a letter from the Deputy Commissioner of Mysore intimating that Jois Thirumalachar, one of the unsecured creditors of the late Bakshi Basappaji Urs who has been executing a decree against the properties of the Bakshi, has admitted in Court the right to priority of the Government over the mortgaged properties and that he has now applied for the sale of all the properties subject to the prior mortgage right of Government. The amount of the decretal debt for the realisation of which Thirumalachar has taken out these proceedings is about Rs. 13,000.

2. If in the sale that is to be held no bid is made on behalf of the Government or the Palace, then the ultimate ownership or what is called the equity of redemption passes to the person who purchases the properties at the auction. Having regard to the heavy encumbrance now existing in favour of the Government and the long time which may elapse before it is discharged, it is not likely that any one will come forward to bid at the sale, unless it be Thirumalachar himself as the price which he offers will up to the amount of his debt only be set off against it and he will not have to pay anything in cash, though at the same time it will be his

interest if he be in need of funds to allow some one else to bid for and take the equity of redemption at a price equal to the amount he might really have been out of pocket in financing the late Bakshi.

3. Should, however, the Government or the Palace wish to purchase the properties, they will have to pay out in cash the price for which the properties might be sold. In such an event, Thirumalachar may raise the bid up to the amount of his own debt in order that he might force the Government to pay up the full amount due to him on the decree.

4. So far as the Government and the Palace are concerned, their interests are not affected by the threatened sale as the amount already advanced to the Bakshi has been charged on his properties and the validity and priority of the charge has been admitted by Thirumalachar. It is therefore proposed to send a reply to the Deputy Commissioner that no further action need be taken in the case on behalf of the Government.

Yours Sincerely

Sd) T. Anandarao

P. Raghavendra Rao Esqr., B.A., B.L.,
Huzur Secretary to His Highness
the Maharaja of Mysore.

Letter No.56/Enc.1, ~~xxx~~ dated Mysore, 2nd August 1912, from the Deputy Commissioner, Mysore, to the Secretary to Government, Financial Department.

With reference to correspondence ending with your letter No.Fl.4009/G.F.488-10 dated 23rd March 1912 relating to the Civil suit filed by Jois Tirumalachar against Government, I have the honor to submit for favour of instructions, a copy of letter received from the Public Prosecutor, Mysore, soliciting instructions as to whether he has to oppose the application of the plaintiff praying for a sale of all the immoveable properties of the late Bakshi Mr. Basappaji Urs subject to the prior lien of Government upon the properties in question.

The Public Prosecutor is of opinion that there is no use in opposing the application.

"Copy"

Under Secretary on duty with
the Dewan.

Letter No.47 dated 2nd August 1912, from the Public Prosecutor, Mysore, to the Deputy Commissioner, Mysore.

In execution cases 113 and 82 of 11-12 I was instrcted to oppose the applications on the same grounds as those urged against Singamma's claim. From this I understand that I had to oppose the execution of the decree in favour of Jois Tirumalachar on the ground that the mortgage in favour of the Government was prior to his claim.

Jois Tirumalachar has now asked for the sale of all the immoveable properties of the late Bakshi Basappaji Urs subject to the lien of Government under their usufructuary mortgage deed. The judgment-creditor having admitted the claim to priority of Government, I do not think anything more remains to be done on behalf of Government now.

The judgment-creditor had also asked for the attachment of money stated to be in the hands of the District Forest Officer and the Deputy Commissioner, Hassan, being the sandalwood realisation of the Arkalgud Taluk villages of the Bakshi, prior to the usufructuary mortgage-deed in favour of Government. I have stated in Court that no such amount is with either of the officers mentioned above.

Under these circumstances, I should like to be instructed as to whether I should continue to oppose the executior of the decree and if so on what grounds.

"Copy"

Under Secretary on duty with the

Dewan.

vide typed [illegible]

G.R.S. 26]

File No.

Serial No.

Diary No. of letter replied to

705/En 2 No.

Bangalore
8th August
1912

General and Revenue Secretariat
( )
, the 19 .

To

My Dear Sir

Date of issue

Signed by

I herewith Enclose a Copy of a letter from the Deputy Commr of Mysore intimating that Jois Thirumalachar - one of the unsecured Auditors of the late Bhakshi Basappaji Ms who has been Executing a decree against the properties of the Bhakshi has admitted in Court the right to priority of the Govt over the mortgaged properties and that he

over.

has now applied for the Sale of all the properties Subject to the ~~lien~~ prior mortgage right of Govt. The amount of the decretal debt for the realisation of which Thimmalachar has taken out these proceedings is about ~~Rs~~ 13,000/-.

2. If in the Sale that is to be held no bid is ~~to be~~ made on behalf of the Govt or the Palace then the ultimate ownership or what is called the Equity of redemption passes to the person who purchases the properties at the auction. Having regard ~~[illegible]~~ to the heavy encumbrance now existing in favour of the Govt and the long time which ~~will~~ may elapse before it is discharged it is not likely that any one ~~third person~~ ~~outsider~~ will come forward to bid at the Sale - ~~though~~ unless

Lis

Copied by

Examined by

GPB—20,000—12-8-10

(60)

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

Though at the same time it will be his interest ~~to~~ if he be in need of funds to allow some one else to bid for & take the equity of redemption at a price equal to the amount he might really have been out of pocket in financing the late Arkotti -

it be Thirumalachar ~~will~~ himself ~~will doubtless do so~~ as the price which he offers will up to the amount of his debt only be set off against it and he will not have ~~anything~~ to pay anything in Cash.

3. Should however the Govt or the Palace ~~(or any third person)~~ wish to purchase the properties they will have to pay out in Cash the price for which the properties might be sold. In such an Event Thirumalachar may ~~will in all probability~~ raise the bid up to the amount of his own debt in order that he might force the Govt to pay up the full amount due to him on the decree.

4. So far as the ~~loan~~ Govt and the Palace are

Concerned their interests are not affected by the threatened sale as the amount already advanced to the Bhakshi has been charged on his properties and the validity and priority of the charge has been admitted by Thirumalachar. It is therefore proposed to send a reply to the Deputy Commr that no further action need be taken in the case on behalf of the Govt.

It is only if it is considered necessary that the equity of redemption should be reserved intact against all risks, for the benefit of the heirs of the Bhakshi, that action would now be called for. In this case the properties will have to be purchased at the auction and the question arises how funds are to be found to meet

(GPB—15,000—18-11-11

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

the price.

I request that instructions if any may be kindly communicated to me at an early date.

Yours sincerely

8 Aug 12

(Dewan)

To

P. Raghavendra Rao Esq BA BL

Huzur Secy to H.H. the Maharaja

(62)

General and Revenue Secretariat.

File No. 488 of 1910

Serial No.

From the Dy Commissioner, Mysore.

23 No. 72 dy 13/8/1912

Requests that early instructions called for in respect of the Case of Jois Thirumalachar vs Govt may be furnished in as [illegible] as the case has been posted to the 20th August 1912 and failure to put in a [illegible] statement before the Court on that date would result in the attached property being ordered to be sold.

Submitted
U. 36 Rbn 19
15/8

Issue draft
appd by Dewan.
(Slightly corrected & initialled by him today).
[illegible]
15/8/12

24 To the Deputy Commissioner Mysore &c.
No. H 789 dy 15/8/1912. States that as Thirumalachar has admitted the right to priority of Govt over the

NOTE—Contn. sheet.

G. R. S. 12]

56 (65)

General and Revenue Secretariat.

97 File No. 488 of 1910

Serial No.

Mortgaged properties the interests of the Govt are sufficiently protected and that no further action in the case appears necessary

25 From the Deputy Commissioner, Mysore D.
No 124 dy 6 September 1912

Forwards petition of Sangamma requesting that information as to who were the officers who constituted the Govt at the time of the transactions in connection with the grant of loan to the late Mr Bakshi Basappaji were made and requesting to be informed what information if any may be furnished

Submitted for orders -
[illegible] 16/9
11 Dr III
Submitted
[illegible] (58)
16/9/12

To Dr III for remarks
[illegible] 12-9-12

Mrs. J 21

The Deputy Comm's letter does not state whether the Court has directed that the informat

OTE—Contn. sheet.

GPB—20,000—20-1-12

57

General and Revenue Secretariat.

97 File No. 488 of 1910

Serial No.

asked for should be furnished. Probably no orders have been passed by the Court. The Public Prosecutor may be instructed to oppose the application for the information as unnecessary. ~~as the intention of the Govt are to be gathered from~~

Forwarded to the Govt Advocate for favour of opinion.

By Order

S. Hiriyannaiya

For Secy to Govt.

16/9/12

P.T.O

L.O.J. 15

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat.

97 File No. 488 of 1910

58 (65)

Serial No.

Dt. O. 11.
D/17-9-12

II
19/9 [illegible]

The application filed on behalf of the Pff does not disclose under what section of the Civil: Pro: Code it is put in. Presumably it is filed under O 6 R 5. The allegations contained in our written statement are not vague & it must be perfectly clear to the Pff, from the pleadings therein contained what case she has to meet. As such it is difficult to perceive on what ground she is entitled to ask for further particulars on a point which cannot be considered to be a part of the pleadings. The Pff seems to have altogether mis-conceived the object of further particulars provided for in the new Code of Civil Procedure — The Public Pros^r. may be asked to oppose the application

Bdorabwamiyan
Govt. adv.

19.9.12

Sub^d
11-31
9/9

Put up draft reply [illegible]

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

. S. 12]

General and Revenue Secretariat.

97 File No. 488 of 1911

Serial No.

D.C. Saying that the application may be opposed for reasons stated in the Govt Advocate's memorandum (Copy enclosed)

21/9/12

Draft Subd
Pl. 36
23/9/1912

Dft may be appd
Subd to Sr Dewan

23/9/12

904. I agree -

26/9/12

(But why not state that the information is one that can be easily gathered from published papers & civil lists, are of good?

3636
28.9.12

Draft appd

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

G7 File No. 488 of 1910-11.

Serial No.

26 To The Deputy Commissioner, Mysore
No. [illegible] Dy 1. 10. 1912

Informs him that the Public [illegible] may be asked to [illegible] the petition of Singamma [illegible] stated in the Govt Advocate's memorandum (copy enclosed).

27 From the Deputy Commissioner, Mysore DC
No 171 Dy 1. 10. 1912.

Forwards a letter from the Public Prosecutor, Mysore asking for instructions in matter of the execution of the decree obtained by [illegible] char against Mr A Chamappaji Urs.

The Public Prosecutor states that he has not ~~[illegible]~~ received any information from the Deputy Commissioner, Hassan as regards the adjustment of the alleged arrears of ~~[illegible]~~ Sandal revenue of Rs 20,000/- and its adjustment; and solicits instructions of Govt as to whether Govt want him to oppose the sale of such right preferred by Jois Thirmalachar. The case was to have come off on the 1st idem.

The Dy Comr. Mysore had been

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat.

File No. 488 of 1910-11

Serial No.

distinctly informed vide Pl 789 of 15/8/1912 that ~~[illegible]~~ as "Thirumalachar has admitted the right to priority of Govt over the mortgaged properties the interests of the Govt are sufficiently protected and that no further action appears to be necessary".

Subd.
N-36 Ar. (9)
9/18/1912
9/11

[illegible]

Subd.

The Public Prosecutor, Mysore solicited, through D.C. Mysore; instructions as to whether he has to oppose the application of the Plaintiff for the sale of all the immoveable properties of the late Bakshi Mr. Basappa Urs. In this office communication of 15-8-12 addressed to D.C. Mysore the Public Prosecutor was informed that as Tirumalachar has admitted the right to priority of Govt: over the mortgaged properties, the interest

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat.

G F File No. 488 of 1910-11

Serial No.

of the Government are sufficiently protected and that no further action in the case appears to be necessary. Beyond this there is nothing in the file to warrant the statement made to the Court by the Public Prosecutor Mysore on the date of hearing - "That the Govt. had no objection to the Sale of the immoveable properties being held -

Subd. 10 A 57 15-10-12 BVN. (9)

Forwarded to the Govt Advocate for favour of opinion.

~~It appears to me that it is not worth~~

B.O.

S. Ranjanmaiya

For Secy.

17/10/12.

There are two kinds of attachments placed by the Jois in furtherance of the Execution of his decree -

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

G F File No. 4 8 8 of 191 11

Serial No.

one is the attachment of certain items of immoveable property over which Govt. have a prior mortgage lien & the other is the attachment of a debt - Estimated at Rs 20000/- alleged to be due by Govt. ~~[illegible]~~ to the Judgt. debtor towards the arrears of Sandalwood revenue. With regard to the attachment of immoveables, since the priority of Govt. is conceded it has been decided by Govt. that no further action is necessary, and this decision was communicated to the Dy. Comr. of Mysore in Fil no 789 of 15.8.1912. On this authority the Public Trosr. ~~[illegible]~~ seems to have informed the Court that Govt. had no objection to the sale being held, subject to the said lien. As a sale of the equity of redemption subject to the prior rights of Govt. will, under the above circumstances, be ordered by the Court, in

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Serial No.

the usual Course of Execution the Statement made by the Public Prosr. to the Court will have no prejudicial effect on the interest of Govt.

Next with refce to the attachment of the debt of Rs 20000/- the right of Govt. to appropriate whatever amount is due to the Judgt. debtor by way of Sandal wood revenue must be pressed upon the attention of the Court. Inasmuch the Judgt. Creditor does not apparently concede the right of Govt. to do so the Court shall have to adjudicate upon the merits of the claim sooner or later. If an order for sale is obtained by the Judgt. Creditor with full knowledge of the claim of Govt., the fact that the Court does not adjudicate upon the validity or otherwise of the claim before such order is passed will not affect the same.

The Public Prosr. who has

NOTE—Contn. sheet.

General and Revenue Secretariat.

File No. 488 of 1910-11

Serial No.

a greater knowledge of the details of the Case must be able to tackle with the situation in all its the aspects in which it may be presented by the other side to the Court.

Mysore
25.10.12

Bdoraswamayer
Govt adv.

Put up draft
[illegible]

Draft Subd.
[illegible]
27/10/12

The Public Prosecutor who is in charge of the case practically does nothing but ask for instructions at each stage of the If he at least gave his own opinion of the matter when asking for instructions the Govt will be in a better position to decide what has

NOTE—Contn. sheet.

[R. S. 12]

General and Revenue Secretariat.

File No. of 191

Serial No.

to be done.

A draft is put up conveying the Govt Advocate's opinion in the case

Urgent

28/8/12

1st Sec

The Asstt Secy will please see me with this file.

(2 p.m. tomorrow Ch Judge's room)

10/11/12

I S Sec draft appd by 1st Sec

11/11/12

28 To the Deputy Commissioner, Mysore Dt. No. FC 2795 of 12-11-1912.

States that in such cases the Public Prosecutor

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

General and Revenue Secretariat.

File No. of 191

Serial No.

or other lawyer engaged on behalf of [illegible] should be asked to give his own opinion as to the line of defence to be taken, and that in this case it would be sufficient if the advocate appears [illegible] says that there is no money or interest that can be legally attached and leave the court to decide.

29 From the Deputy Commissioner, Mysore Dt No. 30 of 16. 12. 1912

Forwards for information copy of ~~[illegible]~~ letter of 10/12/1912 from the Public Prosecutor Mysore, stating in the execution case No. 113 of 1911 12, Sub Court, (Jois Thirumalachar vs Chamappa Ress') the decree holder has admitted the claim preferred by the Palace ~~[illegible]~~ controller and has expressed his willingness to get the properties of the judgment-debtor sold subject also to the mortgage in favour of the Palace. And states that case stands posted to 7th January 1913.

Subd for orders -
Y. 36
21/12/1912 BBN

Please prepare draft (today) sending copies of the letters to the Hazur Sec' for infn.

28/12/12 [illegible]

NOTE -Contn. sheet.

GPB—65,000—17-6-12.

68 (15

R. S. 12]

General and Revenue Secretariat.

97 File No. 4.88 of 1910-11

Serial No.

Draft Sub^d for approval
U. 36 [illegible]
23/12

Issue [illegible]

23/12/12

30 To the Huzur Secretary
No. 3486 dy 23/12/1912 Forwards for informa
Copy of No. 307 dy 16/12/1912. received from the
Deputy Commissioner, Mysore.

31 From the Conservator of Forests in Mysore.
No. 5070 dy 23.12.1912
Forwards Copy of Hassan Dt. Forest Officer's
docket No. 173 dy 11-12-1912, reporting that Rs 4065-
realisations from the Sandal removed from
Bakshi Basappaji Ur's lands, and Soliciting order of for
Draft Sub^d
U. 36
26/12

Issue today

[illegible]

26/12/12

32 To the Conservator
No. F.S. 3539 dy 27.12.'12
Requests that the realisations may be credited
to the loan Account by book transfer in the
Comptroller's Office & the fact intimated

NOTE -Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

File No. 488 of 1910.

Serial No.

to the Commissioner Mysore Dt who is managing the mortgaged Estates.

No. F.C. 3540 dy 27.12.'12

Copy to the Comptroller

33 from the Conservator of Forests No 9 [illegible] dated 26.5.'13

States that the realizations ~~sent of~~ from the sale of Sandalwood collected from the estates of the late Bakshi Basappaji was are placed at the disposal of the Dt Forest Officer Hassan for being credited to the loan account of the late Bakshi Basappaji was in the Comptroller's office

Submitted for information. It is evident that the Comptroller has arranged for the credit of the amount of deposit realised from Sandal revenue due to the Estates of the late Bakshi Basappaji Urs to "interest on loans to Encumbered Jagirdhars". Thus it will not be available for attachment by Jois Thirumalachar. ~~[illegible]~~

May this be filed?

N. 36 12/6/1913

[illegible]

P.T.O.

NOTE -Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

Gt File No. 488 of 1910.

Serial No.

34

From the Conservator of Forests in Mysore, No. 743 Dy 22. 7. 1913.

States that the Dt Forest Officer, Hassan Dt reports that a sum of Rs 3390-1-1 has been credited into the Hassan Dt Treasury under the head "Interest on loans to Enam Lead Jahagirdars.

Submitted for information. No action seems called for.

[illegible] 28/7/1913.

[illegible] 29.7.13

NOTE.—Contn. sheet.

488-10-

190

From

The Dy. Commissioner
Mysore District

To

The Secy to Govt
Genl & Rev. Depts

Dated 7th July 1911.

Despatched

Received

General No. 20
No.

Enclosu

Requesting adjustment of Sandal Revenue available from certain of the Inamdar's villages in the Hassan District, towards the loan of Bakshi Basappiya Urs.

20

Office of the Deputy Commissioner
Mysore District,
Dated Mysore, 7th July 1911.

From

M .Kantaraj Urs Esquire B. A.

Deputy Commissioner, Mysore District.

To

C.S. Balasundaram Aiyar Esquire B.A.

Secretary to the Government of Mysore,

General and Revenue Departments.

Sir,

In continuation of this office correspondence on the subject of loan granted to the late Mr. Bakshi Basappaji Urs , I beg to state as follows:-

2 The Government have been pleased to direct, in their order granting the loan, that the properties that are offered as security by the Bakshi should be managed by me, wherever they happen to be situated and that I should render accounts to Government and to the Comptroller --- periodically. Accordingly I have been requesting the Deputy Commissioner of Hassan in several communications to furnish me the accounts of the Bakshi's villages in his District but to no purpose, and in fact I have not been furnished even with such materials as are necessary for me to report upon the efficient administration of the estate in question as called for in Government Order no. Fl.2419-54.-G.F.127-08., dated 10-11-1908. I have therefore confined my -- attention exclusively to those that are in my District.

3. I just learn that a prohibitory notice has been issued by the Sub-Judge of Mysore against the Bakshi'S heirs receiving payment of ₹14000/- or thereabout from either the Conservator of Forests or the District Treasury

Officer

Officer, Hassan, of the amount of Sandal Revenue, due to him from the Tharagadale and other villages in the Hassan District. I have not received any notice of the kind, though, as a matter of fact, I should have received one, as the administrator of the estate on behalf of Government.

4. Whether this information of mine is correct or no, this much is certain, that a large amount of Sandal Revenue is being allowed to accumulate for a number of years without adjustment, and it is quite likely that some of the greedy creditors of the Bakshi -- of whom there is said to be still one or two--whose dues have not yet been settled, on account of their exorbitant demand of interest may have thought it worth their while to hazard a last attempt.

5. I may state here for the information of Government that the estate of the Bakshi is being managed by Government during the past about 20 years either on behalf of the Palace, or directly, as the purchaser of the estate for a consideration paid as a loan; and the Revenue thereof, in whatever shape it may have accumulated, either in this District or any other, is payable first to Government and it is therefore a matter for the serious consideration of Government as to why such revenue if there should be any, was not credited to Government immediately after the Government assumed the management of this estate, as the purchaser, and who is responsible for this culpable neglect which has resulted in a loss to the Inamdar who would otherwise have saved so much of interest upon the amou credited in reduction of his loan.

6. The decree, in execution of which the notice in ---- question is said to have been issued, is in respect of a certainsum of money, presumed to have been borrowed by the late Bakshi, from one Jois Tirumalachar at Mysore who is sa to have studiously rejected several offers of settlement ma by the Government Agent Mr. D. Sitarama Rao. It is therei a question for consideration as to whether the claim of thi creditor may be allowed to supersede those of others who ha a prior or superior title to the surplus receipts of the estate the Bakshi

the Bakshi and particularly, to the exclusion of Government to such ~~profits~~ surplus ... the sole purchaser of this estate. Even granting that the decree is, in its present form, binding upon the Bakshi or his heirs it can by no means be said to be operative upon the revenues of villages, which the Government have been managing in virtue of the purchase they have made.

7. I therefore request that Government may kindly be moved to issue urgent orders to the Deputy Commissioner of Hassan to credit the amount of sandal revenue in question, being at once credited to Government, in adjustment of the loan due to Government.

8 I shall in the meanwhile, ascertain the exact state of things in regard to the claim in question and report to Government the result of my enquiry. Pending the submission of such report, the Government may be pleased to issue such orders as they deem expedient in view to the adjustment of the amount said to be available in the Hassan District.

I have the honor to be

Sir

Your most obedient servant

Deputy Commissioner
Mysore District.

Mon

II 14/7 Elegant 87 187 (4)

S7 120 488-10

From M. Kantharaja Urs Esq., Ba
Deputy Commissioner,
Mysore District.

To C. S. Balasundaram Iyer Esq., Ba
Offg. Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

Dated 13. 7. 1911

Despatched 13. 7. 1911.

Received

General No. 25
No.

Enclosure No. 3

Requesting the sanction of Govt. for engaging a Competant lawyer in a case instituted against Mr. Chamappaji Urs son of the late Bakshi Mr. Basappa, Urs. —

GBPM—21-9-1910—1,000.

No. 25
Enc. No. 3

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 12 July 1911.

FROM

M. Kantharaja Urs Esq., Ba
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C. S. Balasundaram Iyer Esq., Ba
offg. SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

In continuation of my previous letter No 20 dated 7.7.1911 on the subject of loan to Mr Bakshi Basappaji Urs, I have the honor to forward herewith a letter and its two enclosures received from Mr Chamappaji Urs, son of the late Bakshi Basappaji Urs and to state that as the miscellaneous proceedings instituted in the Sub Judge's Court apparently for the attachment of the amount in question are, from the copy of the prohibitory notice received, understood to come off on the 25th instant, sanction of Government may be kindly obtained for engaging the services of a competent lawyer to defend the interests of Government in the suit.

The copy of prohibitory notice and of the decree passed by the Chief

Chief Court herein enclosed speak for themselves as to the relation of the parties and the liability of the mortgage properties to the claimant in question.

A very early order is solicited as the matter is very urgent.

I have the honor to be
Sir,

Your most obedient Servant

W. B. Antrobus

Deputy Commissioner
Mysore District

[illegible] 9.7.488 [illegible] G 129

[illegible]

XX

[illegible] 7.7.11

[illegible]

[illegible] 8.7.11

[illegible] 21/7/11

[illegible] 1895 [illegible] 1907 [illegible]

[illegible]

[illegible] 14000/- [illegible]

[illegible]

[illegible] 1910-11 [illegible]

[illegible]

10 - 11 - 1908 [illegible]

L 2149-54

127-08-3

7. 7. 1911

[illegible] Hearing 25. 7. [illegible]

[illegible]

[illegible]

1907-08 [illegible] 34.

1910-11 [illegible] 530.

[illegible]

[illegible]

[illegible]

[illegible] 11913-4-6 [illegible]

[illegible]

[illegible] 14000/- [illegible]

[illegible]

(Signed) D. M. Narasingarao.

26. 6. 1911

In the Chief Court of Mysore at Bangalore.

Wednesday, the 12th day of April 1911.

present

Mr. Justice Stanley Ismay C. S. I. Chief Judge

and

Mr. Justice K. S. Chandrasekhara Aiyar. Offg Jud

Regular appeal No: 234 of 1908-1909.

Jois Tirumalachar plaintiff. Appellant.

vs

Chamappaji Urs defendant. Respondent.

Appeal against the decree of the Sub Judge of Mysore in O.S. No: 34 of 1907-08.

This appeal coming on for hearing this day, the Court delivered the following:-

Judgment

The chief Judge:- The sole question which the Lower Court had to decide was whether the promissory notes Exhibits A and B were or were not genuine. The Subordinate Judge found this

this question in the negative and dismissed the suit. The plaintiff has appealed to this court and we have heard very lengthy arguments on both sides but we think it sufficient to say that, whatever may be the real facts connected with these notes, their execution by the late Basappaji Urs admits of no doubt. His son, the defendant, deliberately admits that the signatures on the notes are those of his father; this witness may not be very intelligent but he understands perfectly well the effect of his admissions. No attempt has been made in this court to explain away the admissions and indeed the arguments addressed to us on behalf of the Respondent are confined mainly to the question of consideration. The subordinate judge finds against the genuineness and bonafides of the notes and from para 23 of his judgment it would appear that he uses the term bonafides as equivalent to "consideration". But the proof of non-receipt of consideration was on the

the defendant and he adduced no evidence at all. On the other hand his denial regarding the possession of his father's papers is in itself suspicious.

The decree in our opinion cannot stand. It is set aside and in lieu thereof there will be a decree for the plaintiff against the defendant for the full amount claimed together with all costs in both courts. The decree will only be executed against such assets of the estate of the late Balkrishna Basappaji Urs as may be in the possession of the defendant.

(Signed) S. Ismay.
Chief Judge

Mr. Justice K. S. Chandrasekhara Aiyar:—

I agree that the decree of the Subordinate Judge should be reversed and the plaintiff's suit decreed with costs in both courts.

(Signed) K. S. Chandrasekhara Aiyar
Offg. Judge

"True copy"
(Signed) V. A. Rajaratna Mudaliar
Registrar

Here is the seal of the Chief Court of Mysore

"Copy"

G.R.S. 28.] 14

File No. 488-
Serial No. 5

Diary No. of letter replied to 18/8/11

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, the 19

Date of issue 2d August /11

Signed by W L Narasimhan

READ— Letter No. 258 of 13/7/1911.

from the Dy Comr. Mysore. Soliciting sanction of Govt to engage a Competent lawyer to defend the interests of Govt in a ~~law suit~~

~~Order thereon No.~~

Case instituted against Mr Chamappaji Urs son of the late Bakshi Basappaji Urs.

Order thereon No. H 468 of 2d August /11

~~[illegible]~~

over

SUBJECT.

The engagement of the Service of the Public Prosecutor to defend the case in question is hereby sanctioned.

~~[illegible]~~ Secretary
1.8.11

To the Dy. Comr. Mysore Dt.

[illegible]
1/8

Copy [illegible]
2/8/11

G.R.S. 26]

File No. 488

Serial No. 6

Diary No. of letter replied to 187

Fair draft

No. 7505-6

of 3d August

General and Revenue Secretariat

( )

, the 19 .

To

(1) The Conservator of Forest in Mysore

Date of issue 3-8-11

(2) The Dy Comr Hassan Dt

Signed by W L Narasimha Rao

Dear Sir,

It is understood that a considerable amount on account of Sandal revenue and arrears is due to the Estate of the late Bakshi Basappaji Ees which is now in Gov possession as the security for a lo and that the Sub Judge of Mysore has issued a prohibitory notice at

over.

SUBJECT.

the instance of a creditor of the late Bakshi Basappaji Urs to prevent Mr Chamappaji Urs from receiving the amount. In this connection I am to state that the prohibitory order forbids the payment to the defendant but it does not apparently ~~to~~ prevent the Govt from appropriating it towards the debt due to ~~Govt.~~ them.

It is therefore requested that the money need not be paid to any other party than the Govt without first obtaining Govt orders therefor.

Yours Sincerely

[signature] 2.8.11

List of enclosures,

N-36

Copied by [illegible]

Examined by 3/8/11

GPB—20,000—26-9-10

R.S. 26]

23/4

File No. 488-10

Serial No. 7 (a)

Diary No. of letter replied to 187

No. H 839

General and Revenue Secretariat

(97)

, *the* 19 .

To

dy 24-8-11

The Deputy Commissioner

Mysore -

Date of issue 24 August/11

Signed by W L Narsimhan

Sir

In continuation

7 of Govt. order no. H 468 / 97 488-10 dy 2/8/19

Sanctioning the engagement of the Services of the Public Prosecutor Mysore, to defend the interests of Govt in the case instituted against Mr. Chamappaji Urs. in respect of the attachement of the Sandal revenue ~~[illegible]~~ alleged to be in deposit in the Hass

over.

SUBJECT.

Pt Treasury, I am directed
to forward herewith copy
of the Govt. Advocate's opinion
in reference to the papers sent
up to him ending with your letter
~~under cover~~ No. 258/13/7/1911.

I have etc.

[signature]
23/8

For Fl Secretary

N-36
20/8

pages 7, 8 & 9 of the notes
Please copy under the
heading "Govt Advocate's
opinion"
N

List of enclosures,

Copied by

Examined by

GPB—20,000—23-9-10

D. 2080

II/1912 190 Mysore

From

M Kantaraj Urs Esq. B.A.
Deputy Commissioner,
Mysore District.

To

C.S. Balasundramier Esq., B.A.
Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

Dated 14th Decr 1911.

Despatched

Received

General No. 284
No.

Enclosure No. One

Forwards for Early orders Public Prosecutor's opinion on points connected with Sirigamma vs Government of Mysore & Chamappaji Urs and Jois Tirumalachar's Execution Case.

DIARY No. 2080

1911-1912	
SECTION	G.F.
FILE No.	488-10
[illegible] No.	9

No. 284
Enc. No. One.

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 14th Dec. 11 191

FROM

M.Kantaraj Urs Esq., B.A.
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C.S.Balasundram Iyer Esq., B.A.
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

With reference to Government order No. F1 468 / G.F. 488-10 of the 2nd August 1911 sanctioning the engagement of the services of the Public Prosecutor Mysore to defend the interests of Government in the case instituted against Mr. Chamappaji Urs in respect of the attachment of the sandal revenue alleged to be in deposit in the Hassan district Treasury, letter No.F1839/G.F.488-10-7 of the 24th August 1911 from the Financial Secretary forwarding copy of the Government Advocate's opinion regarding the above case and Govt. order No. F2 177 G.F. 197-11-4 dated 17.11.11 approving of my action in engaging the Public Prosecutor Mysore to defend the interests of Government and those of Mr.Chamappaji Urs in a case instituted against them by Singammah, I have the honor to state that the District Judge who was requested to adjourn the case to a convenient date to enable this office to obtain Government orders on the subject, has adjourned the case to the 14th February 1912. The case of Jois Tirumalachar vs. Chamappji Urs stands posted to 19.12.1911.

The Public Prosecutor Mysore who was asked to conduct these cases has furnished his opinion and I forward a copy

copy of the same for definite instructions being issued either for defending the interests of Government and those of Mr. Chamappaji Urs before the Civil court or for effecting a compromise with the parties. As the Public Prosecutor has raised some important legal points, I submit them for the consideration and early orders of Government.

I have the honor to be

sir,

your most obedient servant

Deputy Commissioner

Mysore District.

O P I N I O N.

The late Mr.Bakshi Basappaji Urs had executed mortgage deeds in favour of several persons mortgaging all his properties. He requested Government to advance him money enough to discharge all his debts on the security of his properties. The Government by endorsement No.Fl 650 dated 1.9.1903 agreed to grant a loan of 1½ lakhs of rupees on condition of his placing his affairs in liquidation in the hands of two trustees to be appointed by Government. Owing to the inability of successive sets of trustees to discharge all the debts of the late Bakshi out of the amount sanctioned by Government no progress was made in settling the affairs of the late Bakshi till about the middle of 1906.

In June 1906 Mr.D.Sitarama Rao was appointed 'agent' on behalf of Government to settle the affairs of the Bakshi. After he took charge of this matter he paid up all the debts of persons who held mortgages of the properties of the late Bakshi except that of Singamma and took deeds of assignment from them. The assignment deeds are all dated subsequent to August 1907. Exdepting one assignment deed Mr. Sitarama Rao got all the assignment deeds registered. One or two of the mortgagees had obtained decrees on their mortgage deeds. Assignments of the decrees have also been taken by Mr. Sitarama Rao. But these assignment deeds are not registered and the assignments do not seem to have been got recognised by the courts which had passed the decrees.

On 3.3.1909 Mr.Chamappaji Urs son of the late Bakshi executed a deed in favour of Government for Rs.1,25,000.

Singamma's suit.

From an office note in the file I find that 12 items of property have been mortgaged to Singamma under bond dated 12.7.1900 executed by the late Bakshi and his son in her favour Of these 10 items had been previously mortgaged to other persons and that Horeyala lands of the Gundlupet Taluk and

and lands in Hadjana Mysore Taluk had no previous encumberances.

Singamma has now filed a suit (O.S.No.2 of 1911-12 District Judge's court Mysore) on her mortgage deed for the recovery of principal and interest due to her by sale of the mortgaged properties. She has impleaded Mr.D.Sitarama Rao who subsequently as agent to the Mysore Government has taken a usufructuary mortgage bond on 3.3.09 and the Deputy Commissioner of the Mysore district as the officer now in possession of the properties mortgaged to her.

The points for consideration now are

1. whether the deed of 3.3.09 executed by Mr.Chamappaji Urs in favour of Government is a sale deed or only a deed of mortgage.
2. whether Government can claim precedence over Singamma's mortgage deed of 12.7.1909 by reason of the Government having taken assignments of mortgage claims prior to that in favour of Singamma.

The deed in favour of Government, in para 1 thereof, is worded as if it were an obsolute sale deed. But the considerations mentioned in paras 5,6 and 7 make it clear that the bond is intended to be only a mortgage deed. Dr. Gour in his Law of Transfer Vol II page 682 says ' The question whether an instrument operates as a mortgage by conditional sale or a conditional sale must be determined on a consideration of the whole document, the mere fact that it is designated the one or the other is not conclusive. The transfer of interest necessary to create a mortgage need not be in express terms. It is sufficient if the instrument taken as a whole has that effect', See also I.L.R. 29 Madras 531 I.L.R. 7 Bombay 73 at 76 and 77; I.L.R. 2 Bombay 231 at 245 and 246; and I.L.R. 11 Bombay 462 at 466.

It is a question of the intention of the parties as exhibited in the terms of the instrument or instruments and in the other circumstances of the transaction. It may be shewn

shewn by the conduct of the apparent vendee in treating the consideration money as a continuing debt due to him that the deed was intended as a mere security. The existence or non-existence of a power in the Vendee to recover the sum named as the price is an important test to discover whether a sale or a mere security was intended. Another indication of intention may be found in the fact that interest is or is not charged on the purchaser's money. If provision is made for interest the inference that a mortgage was intended becomes strong (see Shephard and Brown's commentaries on the Transfer of property Act) I.L.R. 11 Bombay 462 and I.L.R. 22 Bombay 247.

Government order No. F 1861-7 dated 2.8.07, the basis of the whole transaction does not leave this matter to be inferred. Paras 2,3,4,5, 7 (i) and 8 (first half of the first sentence) make it clear that from the very beginning Government contemplated only a loan to Mr.Bakshi Bassappaji Urs and that the repayment of the same should be secured by a mortgage-vide para 8 first sentence, though in the very next sentence Mr. Sitarama Rao is directed to obtain an absolute sale in favour of Government from the late Bakshi. Conditions 5,6 & 7 of the bond dated 3.3.09 clearly indicate that a mortgage only was meant and not an absolute sale as recited therein.

The next point to be considered is whether Government can claim precedence over Singamma's claim by reason of Mr. Sitarama Rao having paid up the mortgage debts prior to that in favour of Singamma and taken assignments of them

' Generally speaking the right to a cession or assignment of security can be claimed only by a person who though not primarily liable to discharge a debt or liable only in part is obliged to pay it for his protection. It cannot therefore be claimed either by the mortgagor himself or by any person who has assumed the payment of the mortgage debt'. Ghose's Law of mortgage 4th edition Vol I pages 332 & 340.

Dr. Gour in his treatise on the Law of Transfer in British India Vol II page says ' This doctrine of subrogation enables only a person with an interest of his own to protect to pay off a prior encumberence. A person having no such interest is regarded as a mere volunteer and he cannot acquite any right by such payment.

' The question whether a stranger may be subrogated to the interest of a mortgagee who is paid off with his money by virtue of an agreement made not with the mortgagee but with the mortgagor when the money is but would seem to be a somewhat debatable point'- Ghose Law of Mortgage P.332.
But this right of subrogation has been admitted in favour of a person who lends money to pay off previous mortgage debts when it is established that ' it was intended that he (the lender) should be treated as the transferree of the debt and the securities if such there be in the hands of the creditor' In re Loexham etc Railway (1889) 1 ch 440.463; I.L.R. 33 Calcutta 1133; I.L.R.36 Calcutta 193; IL R. Calcutta 1035 I.L.R.29 Calcutta 154. In Bombay it has been held the lender can avail himself of a prior security when it is assigned to him by the mortgagee and the money has been paid by the creditor himself with his own hands. See I.L.R. 6 Bombay 64; 18 Bombay 36. The Privy council decision in Dinobandhu Shaw V Jogmaya Dasi 29 Indian appeals 9 decided that the result would depend upon the question whether at the time of the payment it was intended that the previous mortgages should be extinguished or whether it was intended that it should be kept alive for the benefit of the new mortgagee. See also 8 Calcutta weekly Notes p 690; 1 Calcutta Law journal 531; 2 Calcutta Law Journal 288; I.L.R.29 Madras 37 at 40 and 41; I.L.R.28 Allahabad 778; 3 Allahabad Law journal 630 I.L.R.19 Madras 105; I.L.R. 29 Calucutta 154 ; I.L.R.28 Allahabad 508 at 516. Ghose's Law of Mortgage ps.335 and 336 7 all Law Journal 914.

Though at the time when Mr. Sitarama Rao paid the previous encumberances Government had no interest of its own to protect and though there is no written agreement between the Go-

Government and Mr. Chamappaji Urs that the previous mortgages should be kept alive for the benefit of Government;yet from the fact that the Government through its Agent paid the previous mortgages and took deeds of assignment it may fairly be inferred that the intention of both the Government and Mr. Chamappaji Urs was to keep those encumberances alive for the benefit of Government. That being so Government may well claim priority over Singamma's mortgage debt to the extent of the mortgage debts prior in date to Singamma's. Of course Government cannot claim any priority in respect of the amount ~~but~~ lent for the purpose of discharging the personal debts.

There being no ground for valid defence to Singamma's suit on facts the Government can only ask the court, in cases it passes a decree in favour of Singamma, to pass a decree against the hypothecated properties subject to the prior encumberances paid off by the Government.

With regard to the amount advanced by Government in excess of prior mortgages paid up by Government, the Government can only be considered as a mortgagee subsequent to Singamma To that extent Government has the right to redeem Singamma. To give Government the opportunity to do so Singamma has made the agents of Government defendants in the suit instituted by her.

So any decree that may be passed in Singamma's favour will not prejudice the right of Government to recover money advanced for the purpose of paying off the mortgage debts prior to Singamma's debt, but in respect of money advanced in excess and used for the purpose of discharging the personal debts of the late Bakshi the Government will lose its right to recover the same from the properties mortgaged both to Singamma and the Government if the same be sold in execution of the decree which Singamma may obtain.

If once the properties mortgaged to Singamma are sold and bought in a court auction sale the family of the Bakshi gets deprived of them for ever.

From the records it appears to me that the primary object of Government in entering into this transaction was to prevent this contingency happening- Vide Government order No. F1861-7 dated 21-8-07 para 2 (i)

Under these circumstances the Government may well get the matter settled out of court if possible.

Jois Tirumalachar's Execution case.

Jois Tirumalachar has obtained a decree against the assets of the late Bakshi and in execution of it has sought for the attachment of certain money alleged to be in the hands of the Deputy Commissioner Hassan District and the District Forest Officer Hassan as being the realisations of the sandal-wood of the late Bakshi's village in the Hassan district and also the right of getting back from Government all the properties of the late Bakshi according to the conditions of the deed executed by Mr. Chamappaji Urs in favour of Government on 3.3.09

As for the money sought to be attached the Deputy Commissioner and the District Forest Officer of Hassan both state that they have no money payable on account of sandalwood with them. What little they had was sent to the Palace long ago towards the liquidation of certain loans obtained by the Bakshi from the Palace. If after perusing my remarks about the nature of the deed executed in favour of Government dated 3.3.09 the Government concurs with my view that the bond is only a mortgage deed and not an out and out sale deed the Government cannot prevent the Jois from bringing the right of redemption to sale. After purchasing it he has only to wait 46 years to get all the properties of the late Bakshi valued at 165,000 rupees for his decree amount of Rs. 13,000 and odd plus interest thereon for 46 years. The family of the Bakshi thereby lose all the properties. If the Government want still to carry out their original object of preventing the estates of the late Bakshi passing into the hands of his creditors the claim of Jois Tirumalachar should be settled amicably. But if the Government concerns itself with only to seeing to the

the safety of the ~~moony~~ money advanced by it, Jois Tirumalachar may be left to proceed with his execution case unopposed by Government.

Mysore
21. 11. 11.

sd. B.Krishnamachar.
Public Prosecutor.

P.S. If the office note is correct Singamma seems to have first mortgagee rights on Hereyala lands and Hadjana lands. In repect of these properties Government cannot claim priority over Singamma in exercise of the right of subrogation.

sd. B.Krishnamachar.

"Copy"

[illegible]
[illegible]
[illegible]

11/28/12 BN

190

From

M Kantaraj Urs Esq., B.A.
Deputy Commissioner,
Mysore District.

To J S Chakravarti
~~C S Balasundaram~~ Esq., B.A.
Secy. to Govt. of Mysore,
Finl ~~*Gen. & Rev.*~~ *Depts.*

Dated 26th Decr 1911.

Despatched

Received

General No. 310
No.

Enclosure No. File

Forwards deed of conveyance executed by Mr Chamappaji Urs in favour of Government

DIARY No. 2185

1911-1912	
SECTION	G.F.
FILE No.	488-10
SERIAL No.	11

No. 310.
Enc. No. 1 file

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,
Dated Mysore 30th December 1911.

FROM

M. Kantharaj Urs Esq., B.A.,
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

J. S. Chakravarti Esq., M.A., I.R.A.S.
Tribunal SECRETARY TO THE GOVERNMENT OF HIS
HIGHNESS THE MAHARAJA OF MYSORE,
~~GENERAL AND REVENUE DEPARTMENTS.~~

SIR,

I have the honour to forward herewith the Deeds of Conveyance executed by Mr. A Chamappaji Urs in favour of Government as requested in your letter No. H. 2665/G. 7(488-10 of the 23rd instant and to request the favour of an acknowledgement

I have the honour to be,
Sir,
Your most obedient Servant

Deputy Commissioner,
Mysore District

190

From Secy

[illegible] Esq.,
Deputy Commissioner,
Mysore District.

To

C S Balasundaramia Esq.,
Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

Dated 17th January 1912

Despatched

DIARY No. 2445

Received

General No. 340

No.

Enclosure No.

1911-1912

SECTION 9.7

FILE No. 488-10

SERIAL No. 13

Solicits instructions re the Defence of Govt interests in the cases of Jois Tirumalachar & Singamma vs Chamapajji Urs.

No. 340.
Enc. No.

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 17th January 1912.

FROM M. Kantaraj Urs Esq., B.A.
DEPUTY COMMISSIONER, MYSORE DISTRICT.

TO C. S. Balasundram Iyr Esq., B.A.
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

I have the honor to invite kind reference to this office letter no-284 of the 14th December last seeking instructions for defending the interests of Government in the case instituted against Mr. Chamappaji Urs by one Jois Trumabchar and another Linganna and request that you will be so good as to obtain and intimate to me the orders of Government on the subject at a very early date

as

as the case instituted by Sugamma stands posted to the 14th. proximo.

I may add here that Jois Tirumalachar has filed another petition in the Court of the Sub-Judge Mysore praying for the attachment of the immovable properties of the late Sri Bakshi Basappaji Urs in the Mysore District and the case stands posted to the 20th proximo

The favour of a very early reply is requested.

I have the honor to be
Sir
Your most obedient Servant

Deputy Commissioner
Mysore District

G.R.S. 26]

File No.

Serial No. 14

Diary No. of letter replied to 2445

No. Fl 3113

dy 8-2-12

General and Revenue Secretariat

( )

, *the* 19 .

To

The Dy Comr

Mysore

Date of issue

Signed by

Sir.

With reference to your letters No. 340 & 372 dy 17.1.1912 & 5.2.1912 respectively soliciting instructions in the matter of defending the interests of Govt & those of Mr Chamappaji Urs in the cases instituted by Sungamma & Jois Thirumalachar and posted for hearing on the 14th & 20th instants

over.

SUBJECT.

23

I am directed to request you to have ~~move the Court to adjourn~~ the Cases adjourned ~~[illegible]~~ ~~on the~~ on the ground that ~~ground that~~ the final instructions of Govt ~~on the matter~~ ~~are awaited~~ are awaited

2 A copy of ~~[illegible]~~ Singamma's document which has been filed in the Court may be obtained ~~from the Court if necessary~~, and submitted to Govt immediately

I have etc

[illegible]
For Fl Secretary

N-36
8/2

RR.
8.2.12

List of enclosures,

Copied by

Examined by

GPB—20,000—25-9-10

22/2

190

Secy. From Mr Kantaraj Urs Esq., B.A.
Deputy Commissioner,
Mysore District.

To C. S. Balasundaram Esq., B.A.
Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

Dated 20-2-1912

Despatched

Received

General No. 4[illegible]
No.

Enclosure No. [illegible]

Solicits early instructions re the conduct of Singamma vs Govt & Chamappajilles

GBPM—21-9-1910—1,000.

No. 4
Enc. No.

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

DIARY No. 3007

Dated Mysore/Camp 20th Feb. 12 191

FROM 10/10-10 11
SECTION G.J.
FILE No. 488-10
SERIAL No. 15

From M. Kantaraj Urs Esq., B.A
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To G.S. Palasundram Iyer Esq., B.A.
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

With reference to your letter No. F13113 / G F 488-10-14 of the 18th Feb. 12 in the matter of having the cases of Singamma and Mr. Chamappaji Urs and others and Jois Tirumalachar, Mr. Chamappaji Urs and others adjourned till the receipt of final instructions from Government etc., I have the honor to inform that the Public Prosecutor has intimated in his letter No. 166 dated 15.2.12 that the case of Singamma Vs. Chamarpaji Urs and others has been adjourned to the 20th March 1912 and that the court has ordered that no further adjournment would be granted and to request therefore that you will be so good as to obtain instructions at a very early date.

The date to which the case of Jois Tirumalachar Vs. Mr. Chamappaji Urs and others will be adjourned will be intimated to you on receipt of information from the Public Prosecutor.

The copy of mortgage deed executed in favour of Singamma is herewith submitted as called for in the letter under reply.

I have the honor to be

sir

Your most obedient servant

Deputy Commissioner
Mysore Distr

[illegible] 1911-12 [illegible] 2

[illegible]

[illegible] 12 - 7 - 1900 [illegible]

[illegible]

At the request of the President
Paid Rs fifty towards the consideration
of the bond to Mr [illegible] Narasimha
the Advocate who presented the bond
for Singamma. [illegible] Sitaramayya
10/10/06

[illegible]
1889

12 - 7 - 190 0

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

14.7.90

[illegible]

[illegible] 14—7—1900

[illegible]

[illegible] 10.2.12

[illegible] 13.2.12

[illegible] 13.2.12

[illegible]

[illegible]

[illegible] 12.2.12

[illegible] 13.2.12

[illegible]

[illegible]

[illegible] 1—5—8

[illegible]

14—7—1900

R.S. 26]

File No.

Serial No. 4

iary No. of letter replied to

No. H3405

23-2-

eneral and Revenue Secretariat

( )

, the 19 .

To

The Deputy Commissioner

Mysore Dt

ate of issue 23-2-12

igned by Mr L Narsimhiah

Sir. In advertance to your letter No. 416 dy 20/2/ forwarding to a copy of the Mortgage deed execut by the late Mr Bakshi Basappaji Urs & his son Mr Champpaji Urs in favour of ~~[illegible]~~ Singamma, I am directed to request you

over.

SUBJECT.

~~to~~ be so good as to forward a legibly written copy of the deed from the Books of the ~~Registration Office~~ Sub Registrar of Mysore, if necessary as there are some omissions indicated in the copy now sent.

I am also to invite reference to ~~[illegible]~~ office note enclosed ~~and sent up~~ with your letter No. 738 of the 9.4.1910 and ~~to inquire~~ to request ~~that~~ definite information may be furnished ~~if~~ the lands in Hadjana, Mysore Taluk (shown as item no 12 in the just refd to) ~~were~~ have been mortgaged to Singamma or not. ~~and to request you to submit~~ A correct specification (with survey no's etc) of the exact items of ~~[illegible]~~ the late Bakshi's properties which ~~were~~ have been mortgaged to Singamma under the deed may also be furnished

An ~~Early~~ immediate reply is solicited to facilitate the issue of instructions for the conduct of the case. Thave etc

which is said to have been posted to the [illegible]

S.A.

List of enclosures,

Copied by

Examined by

23.2.12.

GPB—20,000—25-9-10

K. Krishna Iyer Esq.,
offg. Deputy Commissioner,
Mysore Distri

To

C. S. Bala Sundaram Esq., Ba.
offg. Secy. to Govt. of Mysore,
Gen & Rev. Dep

Dated 28·2·1912

Despatched 28·2·1912

Received

General No. 428
No.

Enclosure No. 4

Submits a copy of the mortgage deed executed by the late Bakshi Mr Basappaji Urs & his son Mr Chamappaji Urs in favour of Singamma etc.

3098

11 10 12

G.J.

488-10

No. 428.
Enc. No. 4

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,
Dated Mysore 28th Feb. 12. 191.

FROM

K. Krishna Iyer Esq.,
offg. DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C. S. Balasundram Iyer Esq., B. A.
offg. SECRETARY TO THE GOVERNMENT OF HIS
HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

With reference to your letter No. F1 3405/G.F.488-11 dated 23rd instant and your telegram of last night calling for a copy of the mortgage deed executed by the late Bakshi Mr. Basappaji Urs and his son Mr. Chamappaji Urs in favour of Singammah and certain other information, I have the honor to state that I deputed a clerk of my Office to go to the District Judge's court and get a copy of the document made from the original, but as he brought information that the document is torn at the folds and consequently some lines are obliterated, I sent another clerk to the Sub Registrar's Office Mysore to get a copy of the document made from the book of that office and I submit herewith this copy as called for by you.

2. As regards the other particulars called for in para 2 of your letter under reply, I beg to submit herewith a statement showing the particulars of properties mortgaged to Singammah with descriptions of them as recited in the document itself. To enable Government to identify the properties mortgaged to Singammah with those mentioned in schedule A of the Sale deed in favour of Government, I have given in columns 9 to 12 the description of the properties as shewn in schedule A of the sale deed. As the description given in the mortgage deed executed in favour of Singammah does not give survey number, extent and assessment of landed properties, I cannot definitely say without verification on the spot

spot whether the properties detailed in columns 1 to 8 are the same as those mentioned in columns 9 to 12.

3. On carefully going through the description of properties mentioned in the mortgage deed and comparing them with the names of properties mentioned in the office note referred to in your letter, I find that the lands in the Moreyala village in the Gundlupet Taluk and those in the Hadajana village in the Mysore Taluk do not seem to have been mortgaged to Singammah.

The office note referred to does not appear to have been prepared on a reference to the schedule in the document but is stated to have been prepared from the information furnished by Mr. M.D. Narain Iyengar, Advocate, on behalf of Singammah.

4. While looking into the file relating to this case in the District Judge's court, my Office clerk found a letter dated 12.10.1906 from Mr. D. Sitarama Rao to Mr. M.D. Narain Iyengar Advocate on behalf of Singammah (a copy of which is herein enclosed). Mr. D. Sitarama Rao was presumably acting as the Agent of Mr. Bakshi Basappaji Urs and his son. He has acknowledged the liability of the Bakshi and his son to the bond-debt.

5. It has also been ascertained that there is an endorsement dated 15.10.1906 on the mortgage bond to Singammah evidencing the payment of Rs.50 to Mr. M.D. Narain Iyengar by Mr. Sitarama Rao 'at the request of the executants' (a copy of the endorsement is also herewith submitted.

I have the honor to be

sir,

your most obedient servant

Offg. Deputy Commissioner

Mysore District.

Kll
28/2/12

Copy of Endorsement on the document.

At the request of the executants

Paid Rupees fifty ~~to~~ towards the consideration

of the bond to Mr. M. D. Narana Iyengar

the Advocate who presented the bond

for Singamma.

15.10.1906. Sd. D. Sitaramadas.

Copy of letter dated 12.10.1906 from

Mr. D. Sitaramarao to Mr. M. D. Narana Iyengar, Advocate.

Mysore.
12.10.1906.

To

M. D. Narana Iyengar Esq.
Advocate.

Dear Sir,

With reference to your letter of the 8th instant, I have to inform you that Mr. Bakshi Basappaji urs and his son have requested me to acknowledge their liability to the Bond debt due by them to Singamma and also to communicate to you that they are going to send you some money in a day or two.

Yours faithfully.
Sd. D. Sitaramarao.

I ಸೆಷನ್ಸ್ 176 ಸಿ
ಸಂಖ್ಯೆ 256-2012
ಸೆಷನ್ಸ್ ನಡೆಸಿದ್ದು 48
ಸೆಷನ್ಸ್ ಕೇಸ್
ಸಿ ಸಂಖ್ಯೆ ಸಿ ಸಿ
ಸೆಷನ್ಸ್

ಸಿ ಸಂಖ್ಯೆ
ಸಂ.
35 (ಸಾಮಾನ್ಯ ಸೆಷನ್ಸ್ ಕೇಸ್ ನಂಬರ್).

ಸಂತೋಷ್ ತಂದೆ ಗಣಪಯ್ಯ ಪ್ರಾಯ 17 ವರ್ಷ
ಗಣೇಶ್ ತಂದೆ ಗಣಪಯ್ಯ ಪ್ರಾಯ 15 ವರ್ಷ

ಸಂತೋಷ ತಂದೆ ಗಣಪಯ್ಯ ಪ್ರಾಯ 17 ವರ್ಷ ಮತ್ತು ಗಣೇಶ ತಂದೆ ಗಣಪಯ್ಯ ಪ್ರಾಯ 15 ವರ್ಷ ಇವರು ಸಹೋದರರು ಇವರು ಮೃತ ಸುಧಾಕರ ಮತ್ತು ಮೃತ ಸುಂದರಿ ಇವರ ಮಕ್ಕಳು ಮೃತ ಸುಧಾಕರ ಮತ್ತು ಮೃತ ಸುಂದರಿ ಇವರು ಗಂಡ ಹೆಂಡತಿ ಆಗಿದ್ದು ಇವರಿಗೆ ಮೃತ ಸಂತೋಷ ಮತ್ತು ಮೃತ ಗಣೇಶ ಇವರು ಮಕ್ಕಳು ಆಗಿದ್ದು ಮೃತ ಸುಧಾಕರ ಮತ್ತು ಮೃತ ಸುಂದರಿ ಇವರು ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಮೃತ ಸಂತೋಷ ಮತ್ತು ಮೃತ ಗಣೇಶ ಇವರನ್ನು ಸಾಕಿ ಸಲಹಿ ಓದಿಸಿ ಕೊಂಡಿದ್ದರು ಮೃತ ಸಂತೋಷ ಮತ್ತು ಮೃತ ಗಣೇಶ ಇವರು ಸಹೋದರರು ಆಗಿದ್ದು ಮೃತ ಸಂತೋಷ ಮತ್ತು ಮೃತ ಗಣೇಶ ಇವರು ಸಹೋದರರು ಆಗಿದ್ದು ಮೃತ ಸಂತೋಷ ಮತ್ತು ಮೃತ ಗಣೇಶ ಇವರು ಮೃತ ಸುಧಾಕರ ಮತ್ತು ಮೃತ ಸುಂದರಿ ಇವರ ಮಕ್ಕಳ

[illegible]

[illegible]

[illegible]

[illegible]

1900 [illegible]

[illegible]

[illegible] V. Narayana
Rao. 14.7.1900 (Sd) H. Chintamony
Rao Sub Regr. I [illegible]
176 [illegible] 256 [illegible] 2570
[illegible] 48 [illegible]
[illegible]

H. Chintamony Rao
14.7.1900 Sub Regr.

[illegible] 14.7.1900

(Sd) H. Chintamony Rao
Sub Regr.

"True Copy"
H. Chintamony Rao
Sub Registrar
Mysore City.

Compared
M.S. Varadachar
28/2/912

Statement Showing the properties mortgag
dated 12.7.1900 by Mr Bakshi Basappaji
and as given in the Sale deed executed by
Secretary's le

Particulars of the properties as given in th
mortgage deed of Singammah

Serial No	Description of property	Where Situated	Extent	East	West	North	Sou[illegible]

Storied building bearing Municipal Door No 557	Fort Mysore		Lane	Mr Devaraj Nr's house	Road	Houses of Messrs Shamakas & Narain Rao of Dewans' office
Storied building bearing Municipal Door No 556	Fort Mysore		Dhanagalli Nr's house	One house lane	Road	Mr Devaparthiya Avaroo's house
Storied building	Mothikhana Street Mysore Fort		Mr Thippiah's House lane	Mr Chamaraje Nr's house lane	Mr Venkataraj Sabbiah's street	Mothikhana Street

cipal Door Nos 537L 538				No 26	
Muni-cipal Door No 536				No 25	
Muni-cipal Door No 393				No 27	

Storied building with Shops attached thereto	Devaraj Mohalla Mysore		Road	Lane & Yellappa's house	Road	Lane and Religion Dooda [illegible]
Terraced building with Stables garden & hittal	Krishnaraj Mohalla Mysore Kathwadi pen Apahar		Kathwadi pen Apahar & Kumudan Rajappa & Purnachandra Nanjappa's Hittals	Channel	Road leading to Sunnadakeri	Pond in the Sappina
Mavin Tatal	Krishnaraj Mohalla Mysore		Mysore Nanjangud Road	Channel	Overseer Raghavendra Rao's Garden	Mahomedan burial

Municipal Door No 187					2024
Municipal Door No 1093					2028
51-1 garden	3-4	4	12	"	
51-2 do	1-6	1	12	"	
52-1 do	5-17	8	"	"	
52-2 do	0-28	1	"	"	2024
Total	10-15	15	8	"	

Arecanut + Cocoanut garden	Mysore Kasba		Belavadi Mala	Palace Kaval	Gundalpet Taluk limits	Sarl. Bo[illegible]	Mr. Nanjundenas [illegible] Sanden [illegible]
Lands (dry)	Bofavalu Voda-yanapura Nanjangude Taluk	400 acres					

8 garden	0 – 5	.	4	"		
0-2 DO	0 – 30	4	12	"		
9-1 DO	0 – 13	"	8	"		
dry	3 – 28	2	12	"		
0-1 garden	1 – 21	9	4	"		
0 dry	5 – 23	4	8	"		
8 DO	2 – 34	2	4	"		
9-2 DO	4 – 1	3	4	"		
4 dry	2 – 30	2	1	"		
8 garden	3 – 30	13	"	"	No 2	
7 DO	2 – 5	7	8	"		
00 dry	11 – 26	12	8	"		
88 dry	2 – 23	3	"	"		
80-4 garden	2 – 0	12	"	"		
83 dry	15 – 17	13	"	"		
81-2 garden	2 – 25	8	"	"		
82-DO	4 – 5	13	"	"		
83-DO	4 – 3	10	"	"		
80-3 DO	1 – 0	6	"	"		
81-1 DO	1 – 20	4	8	"		
48 dry	3 – 23	3	"	"		
252 dry	3 – 29	3	"	"		
Total	79 – 31	138	1	"		
1 dry	6 – 33	4	"	"		
2 "	4 – 27	3	"	"		
3 "	6 – 30	4	8	"		
4 "	7 – 13	5	"	"	No 15	
5 "	6 – 4	4	"	"		
6 "	5 – 14	4	8	"		
7 "	6 – 3	5	"	"		
8 "	4 – 37	4	"	"		

The boundaries given in Singamma's mortgage deed do not agree with those given in the Schedule to the Sale deed executed in favour of Government. Singamma's document is also silent as regards Survey no extent and assessment.

Lands (dry)	Nanjangol				
	Talyle Contd.				

9 day	3-7	2	12 "
10 "	6-37	5	" "
11 "	7-6	5	8 "
12 "	4-11	3	" "
13 "	4-28	3	8 "
14 "	4-15	4	" "
15 "	4-38	3	8 "
16 "	7-25	5	" "
17 "	6-12	4	" "
18 "	7-1	5	" "
19 "	7-14	5	8 "
20 "	7-0	5	" "
21 "	5-37	4	" "
22 "	6-26	4	8 "
23 "	3-39	2	12 "
24 "	4-15	3	" "
25 "	5-21	4	" "
26 "	7-36	5	8 "
27 "	7-3	5	" "
28 "	6-15	4	8 "
29 "	4-24	3	8 "
30 "	7-8	5	" "
31 "	4-29	3	8 "
32 "	7-8	5	" "
33 "	6-0	4	" "
34 "	4-22	3	8 "
35 "	3-28	2	12 "
36	Kattikarab		
37 day	2-17	2	" "
38 no	1-36	1	12 "
39 —	Kattikarab		
40 day	4-20	3	" "

Lands (dry)	Nanjangude Taluk Canto			
9 Lands dry	Yedavanahalli Gundalpet Taluk	600 acres		

Kurubar Hundi Batta
Government Kaval
Hosafun old tank
Nanjangude Taluk Boundary

1 oxy	7-7	5	"	"
42 "	8-27	6	"	"
43 "	6-6	4	"	"
44 "	6-19	4	8	"
45 "	3-32	2	8	"
46 "	3-6	2	4	"
47 "	3-3	2	"	"
48 "	3-10	2	4	"
49 "	149-17	75	"	"
Total	404-26	256	8	"
439 oxy	49-19	19	"	"
440 "	107-20	40	"	"
441 "	91-33	34	"	"
442 "	7-14	2	12	"
443 "	5-9	2	"	"
444 "	5-8	2	"	"
445 "	5-13	2	"	"
446 "	4-15	1	12	"
447 "	5-32	2	4	"
448 "	12-14	4	8	"
449 "	8-31	3	8	"
450 "	5-2	2	"	"
451 "	10-20	4	"	"
452 "	1-36		12	"
453 "	4-15	1	12	"
454 "	12-26	4	8	"
455 "	10-26	4	"	"
456 "	8-35	3	8	"
457 "	275-16	103	"	"
458 "	12-9	4	8	"
459 "	19-21	7	8	"
460 "	18-22	7	"	"
Total	682-36	256	4	"

Nam Villages of

1 Taragalalé Arkalgud
2 Mallappanahalli Talisk
3 Shanbhoganahalli Hassan
4. Somavaradapura District
5. Henanur

Berizy of 71 Varahas 5 3/4 Panams
Kongalli Village
Coorg Boundary Benki Road
Kongalli Vacant Lands
Hodenamu Village

Mysore District Office
Dated 28th February 1912

Beriz Pagoda	Panams
26	14 1/4
7	11 1/2
3	11 1/2
20	14 1/2
17	4

No 18

x A Jahagir of 5 villages
viz Taragalalé
Mallappanahalli
Shanbhoganahalli
Somavardapura
and Henanur

[signature]
Offg Deputy Commissioner
Mysore District

Pingamnah under registered document

his son with particulars as given in the document

Kshi in favour of Government prepared as per

Fl 3405 / G. 7488-11 dated 25. 2. 1912

Extent, Assessment &c of the properties as mentioned in the Schedule given in the Sale deed executed in favour of Government

Survey No	Extent	Assessment	Corresponding serial No of the properties as shown in appendix No I to G.O. No Fl 861-7 G. Fin 29-05 dated 2.8.1907	Remarks
9	10	11	12	13

From

K. Krishnamurti Esq.,

offg Deputy Commissioner

Mysore Dis

To

C. S. Balasundaram Esq., A

offg Secy. to Govt. of Mysor

Gen & Rev. D

Dated 29-2-1912

Despatched

Received

General No. 429

No.

Enclosure No. Nil

Requesting instruction re A

the case Singamma vs Mr. A

Chamappaji Ens.

No. 429
Enc. No. nil

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore/Camp 29th Feb. 12. 191

3736
11 12
E.2.
488-10
18

FROM

K.Krishna Iyer
Esq.,
Offg. DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C.S.Balasundram Iyer B.A.
Esq.,
Offg. SECRETARY TO THE GOVERNMENT OF HIS
HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

In continuation of this office letter No.416 dated 6th instant intimating the date to which the case of Sinammah Vs.Mr. A.Chamappaji Urs has been posted etc., I have he honor to inform that the case Jois Tirumalachar Vs. A.Chamappaji Urs stands posted to the 26th March 1912 and to equest that you will be so good as to obtain the early insructions of Government in the matter.

I have the honor to be
sir
Your most obedient servant

K.Krishna Iyer
Offg. Deputy Commissioner
Mysore District

60

G.R.S. 26]

File No. 488
Serial No. 18

Diary No. of letter replied to 3098

No. 763565

General and Revenue Secretariat
(97)
, the 19 .

To

4 3 - 12

The Deputy Commissioner
Mysore. Dt

Date of issue 4 March/12

Signed by Mr L Narsimahalu Sir

Adverting to the Correspondence ending with letter No. 428 of 28.2.1912 regarding the case ~~[illegible]~~ instituted by Singamma against Mr Chamappaji Urs, I am directed to request you to be so good as to forward, for reference duly regd by return of post the assignment deeds obtained by Mr Sitarama Rao on behalf of

over. Govt

SUBJECT.

Copy [illegible]

Govt from the creditors of the late Mr Bakshi Basappaji Urs & Mr Chamappaji Urs for having discharged the debts ~~charged~~ due in respect of ~~the~~ properties which have since been mortgaged to Singamma by the Bakshi (on 12.7.1900.) ~~as they are required for reference by Govt~~

2 It is believed that they are now lodged in the District Treasury Mysore (vide H 7672/97127-08 dt 28/5/1909.

3 I am to add that only those documents that relate to the discharge of the debts charged on properties mortgaged to Singamma may be sent

4. If any vouchers, receipts or other documents have been obtained to evidence the discharge of the debts, ~~they may~~ refd to above, ~~they~~ may also be despatched. If the fact of discharge is endorsed on the original ~~bonds~~ deeds, then these deeds in original may be forwarded.

I have etc

Sd/-

for Secretary

List of enclosures,

N-36
4/3

Copied by

Examined by

GPB—20,000—29-9-10

II
6/3 pm

190

From

K. Krishna Iyer Esq.,
Deputy Commissioner,
Mysore Distr

To

C.S. Balasundaram Iyer Esq., B.A.
Secy. to Govt. of Mysore,
Gen & Rev. Dep

Dated 5 } March 1912
Despatched }

Received

General No. 437
No.

Enclosure No. 1 listwi
85 in comm

Forwarding assignment deeds &c relatin to the discharge of sa debts of late Mr Bakg Basappaji Urs by Mr D Sitaram Rao.

GPB—70 reams—27-12-09

No. 437
Enc. No. 1 list with
85 enclosures.

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 5th March 12. 191 .

FROM

K.Krishna Iyer Esq.,

Offg: DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C.S.Balasundram Iyer Esq., B.A.

Offg: SECRETARY TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE, GENERAL AND REVENUE DEPARTMENTS.

SIR,

With reference to your letter No. F13565/G.F.488-11- dated 4th instant requesting to send for reference assignment deeds etc., obtained by Mr.D.Sitaram Rao on behalf of Government from the creditors of the late Bakshi Mr.Basappaji Urs and Mr.Chamappaji Urs, I have the honor to submit herewith the assignment deeds etc.(Nos. 1-90) received from Mr. D.Sitarama Rao with a list of contents.

Papers Nos 78,79,80 and 81 are assignment deeds and receipts but it is not apparent from them what properties were covered by the documents mentioned in them. However they are also submitted for reference and kind return.

The other documents refer to one or other of the properties mortgaged to Singammah.

I have the honor to be

sir

Your most obedient servant

K Krishna Iyer

Offg. Deputy Commissioner
Mysore District.

24.

List of documents sent to Secretary with letter No 437 dated 5.8.1912

No	Date	Description of document.
1	25.8.1907	Assignment deed for Rs 4500/- executed by Eswa Sri Purushotamanandagiri Gorai
2	Do	— do — for Rs 3000/- — do —
3	Do	— do — for Rs 3000/- do —
4	26.8.1907	Stamped receipt from — do —
5	Do	do — do —
6	Do	do — do —
7	Do	Notice of assignment issued by do to Messrs Bakshi Basappaji Urs & Chamappaji Urs
8+9	18/6/1900	Mortgage deed for Rs 6000/- executed by ~~Messrs~~ Basappaji Urs ~~& Chamappaji Urs~~
10+11	Do	do — do — for Rs 4000/-
12	26.8.1907	Assignment deed for Rs 6600/- executed by J.K. Narasimhia
13	Do	Stamped receipt for do painted by
14	Do	Notice of assignment issued by do
15,16+17	20.6.1900	Mortgage deed for Rs 8800/- executed by Mr Basappaji Urs & Mr Chamappaji Urs
18+19	5.7.1897	do — for Rs 7000/- by late Mr Basappaji Urs.
20+21	19.6.1900	Mortgage deed for Rs 10,000/- executed by — do & his son in favour of Krishna Veni Boyi
22	24.8.1897	Discharged Private executed by Mr Basappaji
23	31.8.1898	do — do —
24	Do	do — do —
25	Do	do — do —
26	Do	Receipt granted to Krishna Veni Boyi
27	24.8.1897	Receipt — do —

No	Date	Description of document
28	27.8.1907	Stamped Receipt for Rs 7500 painted by Krishna Vani Raji
29	26.8.1907	Notice of assignment given by Do
30	28.8.1907	Assignment deed for Rs 12,750 executed by Appaji Sheti
31	29.8.1907	Stamped receipt — from Do —
32	28. Do	Notice of assignment — Do —
33	30.5.1900	Mortgage deed for Rs 8000/-
34	Do	Do — for Rs 6000/-
35	Do	Do — for Rs 4000/-
36	Do	Stamped receipt for Rs 18000/-
37	19.1.1900	Pro note for Rs 400/-
38	2.7.1898	Do — 1000/-
39	Do	Do — 600/-
40	16.5.1899	Do — 400/-
41	Do	Do — 400/-
42	Do	Do — 400/-
43	19.1.1900	Do — 900/-
44	2.7.1898	Do — 2000/-
45	Do	Do — 1600/-
46	Do	Do — 1200/-
47	Do	Do — 5000/-
48	31.12.1897	Do — 2500/-
49	31.8.1907	Assignment deed for Rs 8800/- executed by Kishundas
50	Do	Stamped Receipt for Rs 8800/-
51	26.6.1900	Mortgage deed for Rs 8000/-
52 & 53	Do	Do — for Rs 6000/-
54	31.8.1907	Notice of assignment issued by Krishna

No	Date	Description of Document
55	3.9.1907	Assignment deed by Subbannah
56	do	Stamped receipt by do
57	do	Notice of Assignment
58+59	14.7.1900	Mortgage deed for Rs 4925/-
60	6.9.1907	Assignment deed for Rs 3725 by N. Nar[illegible] Gaukkar
61	do	Stamped receipt from do
62+63	19.6.1900	Mortgage deed for Rs 3000/-
64+65	do	do Rs 1000/-
66+67	do	do Rs 1000/-
68	17.9.1907	Notice of assignment given by do
69	12.6.1867	Deed of gift executed by Srinivasa [illegible] in favour of Bakshi Narasappa
70+71	13.9.1871	Sale deed executed by Bakshi Narasappa
72	4.9.1874	do executed by Devaparthiva Baha
73	3.11.1877	Sale deed executed by Chikka Subbarl
74	1.11.1907	Assignment deed executed by Shamanu
75	do	Stamped receipt for Rs 11000/- do
76	31.1.1908	Assignment for Rs 7000/- executed by Mr N. Venkatoba
77	1.2.1908	Stamped receipt given by do
78	27.4.1908	Assignment deed for Rs 24500/- by Subba + Neelakant
79	27.4.1908	Stamped receipt for do from do
80+81	21.3.1908	Two receipts for Rs 10000/- granted by Eswar Giri Purushotamananda Giri Gosai
~~87+88+89+90~~	18.6.1900	Mortgage deed for Rs 6000/- in favour of Mr N Venkatoba
88	do	Schedule to accompany do
89	do	Mortgage deed for Rs 2000/- in favour of Mr N Venkatoba
90	do	Schedule to accompany do

[signature]
Offg Deputy Commissioner, [illegible]

G.R.S. 26]

G7 File No. 488-11

Serial No. 40

Diary No. of letter replied to 3186.

Enc 2 files

No. 3827

General and Revenue Secretariat

(G7)

, the 19 .

To

G 12 March /12

The Deputy Commissioner

Mysore Dt

Date of issue 12 March /12

Signed by W L Narasimhan Sr

Adverting to the Correspondence ending with your letter No. 437 & 5/3/12 on the subject of defending the interests of Govt in the suit instituted by Singamma against Mr Champpage Ms and that by Jois Thirumalachar I am directed to state that it is clear from the terms of the deeds of assignment taken by

over.

Govt

SUBJECT.

Govt when paying off the debts that they have obtained all the rights of the previous mortgagees in respect of the properties mortgaged to Singamma She can therefore proceed against the properties only after the prior claims of Govt are satisfied.

2. The proceedings may be contested by asserting rights of mortage and rights of priority obtained by Govt by payment of previous mortgages, and if the parties come to reasonable terms, compromises may be eventually entered into. The only reasonable terms that Govt would offer as a compromise are those which were originally offered by Mr Sitaram Rao

3. The Enclosures with your letters No F 429 dy 29.2.1912 and 310 dy 26/12/1911 are herewith returned.

I have etc

CSB

~~For~~ Secretary

Copied by [illegible] 12/3/12

Examined by

GPB—10,000—28-2-11.

N-36

II
18/3

Urgent

190

From

K. Krishna Iyer Esq
Offg. Deputy Commissioner
Mysore District

To

C. S. Balasundaram Iyer Esq B.A.
Offg. Secretary to the Government of Mysore,

Dated

Despatched 16th March 1912.

Received

General No. 1
No.

Enclosure No. one

Inviting attention to letter No. 284 dated 4/14-12-1911 requesting instructions in a case instituted by Jois Jinnavalachar ~~Singamma~~, posted to 26th instant, and requesting approval of Government to the written statement in connection with the case of Singamma for being filed in the court on the 20th instant.

3342

11 12

G. F.

Urgent

Office of the Deputy Commission
Mysore District.
Dated Mysore 16th March 1912.

From

K.Krishna Iyer Esquire
Of ffg. Deputy Commissioner
Mysore District.

To

C.S.Balasundram Iyer Esquire B.A.
Offg. Secretary to the Government of Mysore
Genl and Rev. Departments,

Sir,

I have the honor to acknowledge receipt of your letter No. F13827 G.F288-10-20 dated 12th instant giving instructions on the case instituted by Singamma, and to state that a copy of it has been sent to the Public Prosecutor- Mysore for taking needful action accordingly.

The written statement prepared by him for being filed in the court on the 20th instant is herewith submitted for the approval of the Government and return before the above date.

In my letter No. 284 dated 4/12/11, I had sought the instructions of Government on the case instituted by Jois Tirumalachar also against Bakshi Chamappaji Urs. Your letter under reply is silent on this point. I therefore request that you will be so good as to obtain instructions of Government as early as possible as to the course to be adopted in this case which stands posted to 26th instant.

A

I have the honor to be
sir,
Your most obedient servant

Offg. Deputy Commissioner
Mysore District.

In the Court of the District Judge Mysore.

O.S.No.2 of 1911-12.

Plaintiff	Vs.	Defendants.
Singamma.		1Chamappaji Urs. 2.Deputy Commissioner Mysore District. 3.Deputy Commissioner Hassan District 4. Officer in charge of the Palace Establishments.

In reply to the plaint defendants 2 and 3 beg to state as follows:-

1. Prior to the date of the plaint hypothication, defendant No.1 and his father the late Bakshi Basappji Urs had jointly or separatly borrowed various sums of money from different persons to whom they or he had executed duly registered mortgage deeds and the sums due under such deeds or decrees founded thereon were due and payable to the respective prior incumbrances .

2. By virtue of an agreement between Mr.D.Seetaram Rao then agent of Government, on the one hand and the late Bakshi Basappa ji Urs and his son the first defendant on the other hand, followed by the usufructuary mortgage deed dated 30 March 1906 executed by the 1st Defendant, the Government with the intention of keeping its rights of subrogation alive , has taken assignments of such prior mortgages and decrees for consideration.

3. The Government is therefore entitled to priority over the claim of the plaintiff on the plaint schedule properties for the whole of the amounts due under such mortgages and

decrees together with interest up to date ~~also~~ as also future interest up to date of realisation.

4. In the event of the Court passing a decree in favour of the Plaintiff , these defendants pray that the Government may be given priority over the claim of the Plaintiff on the plaint schedule properties for all the moneys referred to in ~~par~~ para 3 above.

" C o p y "

B.K.M.

71

G.R.S. 26]

File No.

Serial No. 18(e)

Diary No. of letter replied to 3342

No. 3931

18-3-12

General and Revenue Secretariat

( )

, the 19 .

Date of issue 18 March /12

Signed by W

To

The D C

Mysore Dt.

Sir,

In reply to your letter No. 469 of 16.3.12, I am directed to state that the written statement proposed to be filed in connection with the case instituted by Singamma is approved and is herewith returned.

over.

SUBJECT.

12

As regards the 4 case instituted by Jois Tir male - their instructions ~~[illegible]~~ of Govt will be communicated to you at a very early date.

I have &c

[illegible]

8/12 Secy

RR
18/8/12

G.R.S. 26]

File No.

Serial No. 18 f

Immediate

Diary No. of letter replied to

No. X 4009

23-3-12

General and Revenue Secretariat

( )

, the 19 .

To

The Deg. Commr.

Mysore St.

Date of issue 23-3-12

Signed by [illegible]

Sir,

A deverting to your letter No. 469 dated the 16th March 1912 and in continuation of this office letter No. dated the 18th March 19 I am directed to state, the case instituted by Jois Tenimala char against Bakshi Chamappaji Urs, on

e Public Prosecutor
aybe instructed to
ontest

over.

SUBJECT.

n the same grounds as
those adopted in Singamma's
ase. The are of opinion
hat their position against
ois Jinimala char is even
tronger than that against
ingamma, but ~~they~~
would be prepared to stand
y the terms originally
ffered by Mr D. Sitaram
Rao.

Chave to

Finl. Secy

R.R.
21.3.12.

21.3.12

would not yet withdraw
~~but do not object to any compromise~~
~~the only reasonable terms that~~
the terms of compromise
~~[illegible] offer are those~~ which
were originally offered by
Mr Sitaramarao.

22/3/12

List of enclosures,

Copied by MSU 23/3

Examined by

GPB—20,000—26-9-10

II
20/4/12

From K. Krishnien Esqr
Offg Dy. Commr. Mysore Dis

To C. S. Balasundaranier Esq
Offg Secy to Govt of Mysore,
Genl + Rev. Departmen

Dated 19.4.1912

Despatched

Received

General No. 525
No.

Enclosure No. 2.

Requesting instructions re
Civil Suit filed in District
Judges Court, Mysore by on
Singamma against late
Bakshi Basappaji Genl et

DIARY No. 3918

1911-1912
SECTION G.F.
FILE No. 488-10
SERIAL No. 19

Office of the Deputy Commissioner
Mysore District
Dated Mysore 19th April 1912.

From

K.Krishna Iyer Esquire
Offg. Deputy Commissioner
Mysore District

To

C.S.Balasundram Iyer Esquire B.A.
Offg. Secretary to the Government of Mysore
General and Revenue Departments.

Sir,

Adverting to correspondence relating to a Civil suit filed before the District Judge of Mysore against Government in regard to the recovery of a debt due by the late Mr.Bakshi Basappaji Urs to Singammah, I have the honor to forward herewith a copy of letter No.233 of the 10th instant received from the Public Prosecutor Mysore requesting to be furnished with the information called for by the plaintiff as per enclosed copy of a reply statement and to request the favour of instructions as to whether the information may be furnished from the records available in this Office.

Both the Public Prosecutor and myself are of opinion that all this information should be furnished as otherwise the Court might draw an adverse inference.

As the case stands posted to the 28th May next, the instructions now sought for may be communicated early so as to enable me to furnish the information in time.

I have the honor to be
sir
your most obedient servant

K Krishna Iyer

Offg. Deputy Commissioner
Mysore District.

Letter No.233 dated 10.4.1912 from the Public Prosecutor Mysore to the Deputy Commissioner Mysore District.

Sir

O.S.2 of 1911-12 District Judge's court Mysore Singammah Vs.yourself came on for hearing yesterday when the plaintiff filed a reply statement. I have been directed to furnish the information asked for therein by 30th May 1912. Herein I have enclosed a copy of the reply statement. I request you to furnish me the information wanted in a tabular statement.

Execution case No.113 of 11-12 Sub Judge's court Mysore, Jois Tirumalachar Vs.Chamappaji Urs stands posted to 28th May 1912.

Execution case No.321 of 1911-12, Sub Court Mysore yourself Vs. Sreenivasachar and others stands posted to 28.5.1912 for attachment of properties.

I have etc.,

sd. B.Krishnamachar

Public Prosecutor- Mysore.

"copy"

Offg. Deputy Commissioner

Mysore District.

In the court of the District Judge
Mysore.

Original Suit No 2 of 1911-12

plaintiff
Sungamma

Defendants
Mr. Chamappaji Ars & 3 others.

In reply to the written statements filed by the defendants 2.3 and 4 plaintiff begs to state as follows:-

(1) That the said written statements are vague and incomplete.

(2) That it is necessary that they should give information on the following points:

(a) Who were all the prior mortagagees and what are the ~~debts~~ dates of their bonds.

(b) What are the properties mortagaged to each of these persons.

(c) What are the sums paid by Government towards the satisfaction of the debt due to each of them and when.

(d) What is the market value put by Govt upon each of the properties mortagaged to Government by the 1st defendant.

(3.) That after furnishing the above information plaintiff will give a further reply

(Sd) M. D. Narasaiyengar
Advocate for pff

9 4/12

G.R.S. 26] 75/78

Retent 875

78 688

File No. 10

Serial No. 20

Diary No. of letter replied to 3918

No. Fl. 4757

General and Revenue Secretariat

( )

, the 19 .

Date of issue 8th May 1912

Signed by Mr: S. Hiriyanna

To

The Deputy Commissioner
Mysore Dt

Sir.

With reference to your letter no 525/2 of 19.4.1912 Soliciting instructions as to whether the information required by the Public Prosecutor in the matter of the civil suit instituted by Singam against Govt for the recovery of the debt due to her by the late Mr Bakshi Basappaji Urs may be furnished

over.

SUBJECT.

71

to him from the records available in your office, I am directed to state that information on all the points noted by him may be furnished ~~by him to the Court~~ except as regards the market value of the properties as estimated by the Govt. The latter is only a matter of opinion for the guidance of Govt in its transactions and can not help the ~~Govt~~ pltff's case

I have etc

For Secretary

to the public prosecutor

The latter ~~will however~~ need not however furnish to the plaintiff information about the market value of the properties as estimated by Govt as it is only a matter of opinion for the guidance of Govt in its transactions and can not help the pltff's case

Y. 36 [illegible] 19)
7/5/1912

H. 4758
G. F. 488-10
of 8-5-XII

Copy to the public prosecutor. My son

List of enclosures,

Copied by KR 7/5/12

Examined by

GPB—20,000—25-9-10

II/6/20

190

From

K. Krishna Iyer Esq.,
Deputy Commissioner,
Mysore District.

G. F.

To

K. R. Sreeniversengar Esq., M.A.
Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

Dated
Despatched 4th July 1912

Received

General No. 2
No.

Enclosure No. 1

Forwarding Copy of a confidential Note prepared by the Public Prosecutor Mysore for orders

DIARY No. 120

1912-1913	
SECTION	G.F.
FILE No.	488-10
SERIAL No.	21

No. 2
Enc. No. 1

Urgent and Confidential.

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 4th July 1912 191

FROM

K.Krishna Iyer ESQ.,
Offg DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

K.R.Srinivasa Iyengar ESQ., M.A.,
Offg SECRETARY TO THE GOVERNMENT OF HIS
HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

I have the honour to forward herewith a copy of the confidential note prepared by the Public Prosecutor with reference to the suit Singamma Vs Government in O.S. No.2 of 1911-1912 in the District Judge's Court, Mysore, for such instructions or orders as the Government may be pleased to issue thereon.

The case is again posted to 8th August 1912 for argument.

I have the honour to be,
sir,
Your most obedient Servant,

K Krishna Iyer
Offg. Deputy Commissioner
Mysore District.

ASR

In continuation of my opinion about the suit filed by Singamma against the Deputy Commissioners of Mysore and Hassan Districts and the Palace Comptroller (O.S.2 of 1911-1912 on the file of the District Judge, Mysore) I have to bring to your notice some recent decisions of the British Indian High Courts about the law of subro--gation.

The decisions quoted by me in my opinion already given lay down that equity raises a presumption that the subsequent mortgagee or vendee who pays off some prior mortgage debts does so with the intention of keeping alive such debts as a shield against an intermediate mortgage and that such alienee steps into the shoes of the mortgagees whose debts have been paid off and that he can claim to be redeemed by an intermediate mortgagee.

But where a subsequent alinee (mortgagee or vendee) has undertaken to discharge all previous mortgages or some specified mortgages out of the mortgage amount or purchase money as the case may be, and such alienee discharges some only of the mortgages which he has undertaken to discharge and does not discharge the other mortgage or mortgages as undertaken by him, it has been held that the presumption raised by equity that he intended to keep alive the mortgages paid off by him as a shield against the other mortgages which he undertook to discharge but has not, is negatived and so he cannot be allowed to subrogate. I.L.R.33 Allahabad 101; 20 Madras Law Journal 381; 6 Allahabad Law Journal 549; 27 Allahabad weekly Notes 85.

Applying this principle to the facts of the suit filed by Singamma, where the Government have, in their un--sufructuary mortgage deed, undertaken to pay up all the mortgaged debts including the debt due to Singamma out of the mortgage amount, I fear Government cannot succeed

succeed in their contention that they should be allowed to subrogate.

If this contention of Government is found against them, Government will be reduced to the position of a pusine mortgagee with respect to the mortgage in favour of Singamma and can only redeem Singamma till the proper-ties hypothecated to her are sold in execution of the decree she may obtain.

If the properties mortgaged to Singamma are brought to sale and bought by her the Government will be forced to give possession of those properties as the Government did not choose to avail themselves of the opportunity, to redeem Singamma, given in the present suit.

I believe that two kinds of subrogation viz., legal and equitable are discussed in the case reported in 27 Calcutta Weekly Notes page 85. As that volume of the Calcutta Weekly Notes is not available here I would suggest the report being perused and considered by Government.

sd. B.Krishnamachar.

Public Prosecutor-Mysore.

Copy

[signature]

Ag Deputy Commissioner

File No. 4 88-10

Serial No. 22

Diary No. of letter replied to

No. H 418

d 22-7-12

General and Revenue Secretariat

( )

, *the* 191 .

To

Dear Sir

Date of issue 22-7-12

Signed by W Hiriyanna

With refce to your letter no 2 dated 4.7.1912 forwarding Copy of a Confidential note from the Public Prosecutor Mysore on Singamma's Suit ~~agt the repres~~ now pending in the Dist Court. I am asked to request you to forward ~~the Copy~~ the Enclosed Copy of a Confidential note by the Govt Advocate on the points raised ~~by~~ to the

over.

SUBJECT.

the public prosecutor for his information

Law

Dear Sir

Yours Sincerely

LB

Copied by KB
Examined by 23/7/12

GPB—25,000—8-8-11.

II
3/8 pm. Urgent

Secy.

19

From

The Dy. Commr G.F.
Mysore Dt.

To

The Secy to Govt
Genl. & Fin. Deptt.

Dated 2nd Aug. 1912

Despatched

Received

General No. 56.
No.

Enclosure No. 1

Solicits instructions in re opposing appln of pl Jois Tirumalachar in Jois Timmalachar vs Government & Chamappa Urs.

DIARY No. 518.

19/2-19/3
SECTION G.F. x
FILE No. 488-10
SERIAL No. 22(a)

x Read at 4.45 Pull today

3.8.12

85

No. 56
Enc. 1

Urgent

Office of the Deputy Commissioner,
Mysore District,
Dated, Mysore, 2nd August 1912.

From

T. Krishna Iyer Esquire.,
Offg Deputy Commissioner,
Mysore District

To

J.S. Chakravarti Esquire., M.A., F.R.A.S.,
Secretary to the Government of Mysore.
Financial Department.

Sir,

With reference to correspondence ending with your letter No. Fl. 4009/G.F. 488-10 dated 27rd March 1912 relating to the Civil suit filed by Jois Tirumalachar against Government, I have the honour to submit for favour of instructions, a copy of letter received from the Public Prosecutor, Mysore, soliciting instructions as to whether he has to oppose the application of the plaintiff praying for a sale of all the immovable properties of the late Pakshi Mr. Basappaji Urs subject to the prior lien of Government upon the properties in question.

The Public Prosecutor is of opinion that there is no use in opposing the application.

I have the honour to be,

Sir,

Your most obedient Servant,

Officiating Deputy Commissioner
Mysore District.

N.V.T.

Urgent

1912.

86

From

The Public Prosecutor.
Mysore.

To

The Deputy Commissioner,
Mysore.

No. 47 dated 2-8-1912.

Sir,

In Execution cases 113 and 82 of 11-12 I was instructed to oppose the applications on the same grounds as those urged against Sirigamma's claim. From this, I understand that I had to oppose the execution of the decree in favour of Jois Sinnalachar on the ground that the mortgage in favour of the Government was prior to his claim.

Jois Sinnalachar has now asked for the sale of all the immovable properties of the late Bakshi Basappaji as subject to the lien of Government under their usufructuary mortgage deed. The Judgment-Creditor having admitted the claim to priority of Government, I do not think any thing more remains to be done on behalf of Government now.

The Judgment-Creditor had also asked

ands of the District Forest Officer and the Deputy Commissioner Hassan, being the Sandal-wood realisation of the Arkalgud Taluk Villages of the Bakshi, prior to the usufructuary mortgage-deed in favour of Government. I have stated in Court that no such amount is with either of the officers mentioned above.

Under these circumstances, I should like to be instructed as to whether I should continue to oppose the execution of the decree and if so on what grounds.

I have etc.

(Sd) B. Krishnamachar

Public Prosecutor

"Copy".

K Krishnaiyar

Offg. Deputy Commissioner

Mysore District

11 14/8 Immediate

19

G.F. [illegible] 15

DIARY No. 660.

10/12-10/13
SECTION G.F
FILE No. 23
[illegible] No.

From 660.

Secy, The Dy Com on Mysore Dt

To

The Fin'l Secy to Govt

Dated 13 - 8 - 1912

Despatched

Received

General No. 72
No.

Enclosure No.

Solicits instructions in re the case of Jois Nirmalachar vs Govt &c

Office of the Deputy Commissioner
Mysore District

Immediate
No. 72

Dated Mysore, 13th August 1912.

From
K. Krishna Iyer Esq
Offg. Deputy Commissioner, Mysore District

To
J. S. Chakravarti Esq M.A., F.R.A.S.
Secretary to the Govt. of Mysore
Financial Department.

Sir,

I have the honor to invite kind reference to this Office letter no. 56 of the 2nd instant forwarding Copy of letter no. 47 dated 2-8-1912 from the Public Prosecutor, Mysore and to request that you will be so good as to issue early instructions in the case of Jois Trimalachar which is posted to the 20th instant for filing written statement and failing which the attached properties will be ordered to be sold.

I have the honor to be
Sir
Your most obedient Servant

K. Krishna Iyer
Offg. Deputy Commissioner
Mysore District.

15/8/12

G. S. 26]

File No. 4884

Serial No. 24

Diary No. of letter replied to

No. 789

General and Revenue Secretariat
( )
, the 19 .

Date of issue 15-8-12

Signed by M.S. Shamanna

To

The Deputy Commr
My Sore Dt.

Sir

In reply to your letter no 56 dated the 2nd inst asking for further instructions in regard to the Execution Competition filed by Jois Thirumalachar against the properties of the late Bhakshi Basappaji Urs I am directed to state that as Thirumalachar has admitted the right to priority of Govt

over.

SUBJECT.

90

ove the mortgaged properties,
the interests of the Government
re sufficiently protected and
that no further action, in the case appears to be
necessary.

I have &c

Fin^l Sec^y.

SA

Appd by Dewan.

[To be issued only after waiting some time for the reply from the Hussn Sec^y to the D.O. appd today]

SA

Issued
SA
15/8/12

15 Aug 12 8/8/12

List of enclosures,

Copied by

Examined by

15/8/12

GPB—20,000—12-8-10

11/7/9 ... 19

From

The Deputy Commissioner
Mysore District

To

The Revenue and General
Secretary to Government

Dated 6th Septr 1912.

Despatched

Received

General No. 124
No.

Enclosure No. 1

Requests information re the petition of Singamma in O.S. no 2 of 1911-12 on the file of the Mysore Dist Judge

DIARY No. 935

12 13
G F
SERIAL No. 75

GPB—1,50,000—20-8-11

No. 124
E. 1

Office of the Deputy Commission
Mysore District,
Dated, Mysore, 6th September 1912

From

K.Krishna Iyer Esquire.,
Offg.Deputy Commissioner,
Mysore District.

To

K.R.Srinivasa Iyengar Esquire., M.A.,
Offg.Secretary to the Government of Mysore.
General and Revenue Departments.

Sir,

I have the honour to forward herewith copy of petition filed by Plaintiff Singamma requesting information as to who were the officers who constituted the Government at the time of the transactions made in connection with the grant of loan to the late Mr.Bakshi Basappaji Urs and to request that you will be so good as to intimate whether what information if any at all may be furnished.

As the case stands posted to the 2nd October 1912 the favour of an early reply is requested.

The enclosure may kindly be returned.

I have the honour to be,
Sir,
Your most obedient Servant,

K Krishna Iyer
Officiating Deputy Commissioner
Mysore District.

H.V.T.

In the court of the District Judge Mysore
O.S. 2 of 1911-12

Plaintiff Defendants
Singamma v Chamappaji Ms
& others.

Plaintiff begs to state as follows:—
1. That in the written statements filed by them in the above case defendants 2, 3 & 4 plead that "the Government with the intention of keeping its rights of sub-rogation alive has taken assignments of such prior mortgages & decrees for consideration
2. That in order to enable the plaintiff to prove that there was no such intention on the part of "the Government" it is necessary for her to examine "the Government
3. Plaintiff therefore respectfully prays that the other side be directed to furnish information as to who were the officers who constituted "the Government" at the time of the transactions in question so as to enable her to examine them.

6-8-12.

1/10/12

93

G.R.S. 26]

File No. 488

Serial No. 26

Diary No. of letter replied to 935

No. 2402
dy 1-10-12

General and Revenue Secretariat
( )
, the 19 .

To
The Deputy Commission
Mysore.

Date of issue 1st Octr /12

Signed by W L Narasimhan

Sir,

Adverting to your letter No. 124 dy 6/9/1912 ~~[illegible]~~ soliciting instruction regarding the ~~to the supply of~~ information asked for by Singamma as to the officers who constituted the post at the time of granting a loan to the late Mr.

over.

SUBJECT.

Bakshi Basappaji Ulu,

I am directed to state that the Public Prosecutor may be asked to oppose the petition of ~~the Plaintiff~~ Singamma for reasons stated in the Govt Advocate's Memorandum (Copy Enclosed)

I have etc

Sd/-
For Secretary

Attd
28 Sept

U.36
23/9

List of enclosures,

Copied by
Examined by 1/10/12

GPB—20,000—26-9-10

11/2/10 pr.

DIARY No. 1286

190

From

Secy The Deputy Commissioner
Mysore Dist

19/12/1913

SECTION

FILE No. 488-10

SERIAL No. 27

To

The Secretary to Government
General & Revenue Dept

Dated 1st Octr 1912

Despatched

Received

General No. 171
No.

Enclosure No. one & file

Solicits Government order
in re the Execution of the
decree obtained by Jois
Firumalachar against
Mr. A. Chamappaji Urs

Office of the Deputy Commission..,

Mysore District.

No. 17

Dated, Mysore, 1st October, 1912.

From

K. Krishna Iyer, Esquire,

Offg. Deputy Commissioner,

Mysore District.

To

K. R. Srinivasaiengar, Esquire, M.A.,

Offg. Secretary to the Government of H.H. the

Maharaja of Mysore,

General and Revenue Departments, Bangalore.

Sir,

I have the honour to submit herewith copy of letter No.110 dated 30-9-1912 from the Public Prosecutor, Mysore asking for instructions in the matter of the execution of the decree obtained by Jois Tirumalachar against Mr. A. Chamappaji Urs and to request that you will be so good as to obtain and intimate the instructions of Government on the last para of the letter quoted above.

The enclosures received with the above are herein enclosed for reference and return.

I have the honour to be,

S i r,

Your most obedient servant,

K. Krishna Iyer

Offg. Deputy Commissioner,

Mysore District.

H. K. S.

Copy of the docket No. 110 dated, 29th ~~30th~~ September 1912 from the Public Prosecutor Mysore, to the Deputy commissioner Mysore District.

Sir, In the matter of the execution of the decree obtained by Jois Tirumalachar against Mr. A. Chamappaji Urs the decree-holder has filed the following petitions Viz.:-

1. Execution case No. 82 of 11-12 praying for the attachment of (a) Mysore Sivarampet Chatram (b) Mysore fort house No. 557 (c) Mysore fort house No. 558 and (d) villages in the Arkalgud Taluk.

2. Execution case No. 530 of 10-11 praying for the attachment of Sandalwood realisations of the Arkalgud Taluk villages of the period prior to the date of the mortgage deed in favour of Government.

3. Execution case No. 113 of 11-12 praying for the exparte order dismissing execution case No. 530 of 10-11 being set aside.

4. Petition dated 2nd November 1911 praying for the attachment and sale, subject to the mortgage in favour of government, of the properties mentioned in the schedule of the petition.

5. Petition dated 13th February 1912 praying for the attachment of Rs. 20,000 alleged to be in deposit in the Hassan District Treasury being the accumulated revenue of the Arkalgud Taluk villages of the period previous to the date of the mortgage in favour of Government.

6. Petition dated 7th September 1912 praying for the attachment of properties mentioned in the schedule to the petition and for the sale of the equity of redemption which Mr. A. Chamappaji Urs has in those properties.

When the sandal wood realisations were sought to be attached the Deputy Commissioner Hassan stated in his written statement that no such money was with him, and this written statement has been filed by me in court.

Notice of attachment of the alleged arrears of revenue said to be in deposit was served on the Deputy Commissioner Hassan and he has sent a docket to the Sub Court stating that no such

deposit

deposit exists.

As instructed by Government I stated to the Court on the last date of hearing i.e., on 24th September 1912 that the Government had no objection to the sale of the immoveable properties being held if such sale was made subject to the usufructuary mortgage in favour of Government for Rs. 1,25000.

The judgement creditor wants the right to receive the alleged 20,000 Rs. stated to be the arrears of revenue to be sold stating that such amount was in deposit till recently and that it has been adjusted with the object that it may not be available for payment to him.

On this point I have not heard from the Deputy Commissioner Hassan. I do not know whether the Government wants me to oppose the sale of such right forwhat it is worth. The Sub-Judge has posted the case to 1st October 1912 for passing final orders. The above mentioned six petitions' copies are herewith sent for perusal and return.

I have etc.,

Sd/- B.Krishnamachar.

Public Prosecutor.

"Copy"

Udamahan

For Offg. Deputy Commissioner

Mysore District.

S.V.S.

Letter No.206 dated 10th December 1912 from the Public Prosecutor, Mysore, to the Deputy Commissioner, Mysore.

Sir,

I have the honour to inform you that in Execution Case No.113 of 1911-12, Sub Court, Jois Tirumalachar vs Chamappaji Urs, the decree holder came to court to-day and admitted the claim preferred by the Palace Controller and expressed his willingness to get the properties of the judgment debtor sold subject also to the mortgage in favour of the Palace. So you will be pleased to see that I have nothing further to do in the execution case either on behalf of Government or on behalf of the Palace.

Sale notice has been ordered to issue to the judgment debtor and the case stands posted to 7-1-~~1912~~. 1913.

I have etc.,

Sd.B.Krishnamachar.

Public Prosecutor-Mysore.

"Copy"

Assistant Commissioner,
For Deputy Commissioner,
(Absent from Head Quarters).
Mysore District.

H.V.T.

11/11/12 3.15

99

G.R.S. 26]

File No. 488-10

Serial No. 28

Diary No. of letter replied to 1256

No. 2795

& 12-11-12

General and Revenue Secretariat

( )

, the 19 .

To

The Dy Commr
Mysore District

ssue 12-11-12

Signed by W L Narsimhan

Sir,

With reference to your letter no: 171 & 1.10.12 forwarding a copy of letter no: 110 & 29.9.12 from the Public Prosecutor, Mysore, to the Dy Comr, Mysore District, soliciting instructions as to whether it is the intention of

over.

SUBJECT.

Govt. that he should oppose the application of Jois Tirumalachar for the attachment and sale of the right of the judgment-debtor (Mr. A. Channappaji Urs) to certain arrears of sandalwood revenue estimated to amount to Rs. 20,000 and alleged to be held in deposit in the Hassan District Treasury, I am directed to state that the right of Govt. to appropriate whatever amount may be due to the judgment debtor by way of sandalwood revenue must be pressed upon the attention of the Court. In as much as the judgment creditor does not apparently concede the right of

that in such cases, the Public Pr. or other lawyer engaged in behalf of Govt. should be asked to give his own opinion as to the line of defence to be taken. It will be sufficient if the Adv. in this case appears in answer to notice issued to him that there is no money or interest that can be legally attached & then leave the Court to decide in whatever way it chooses. No further

List of Enclosures.

Copied by

Examined by

GPB—10,000—28-2-11.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

trouble need be taken in ~~prosecuting the~~ defending the cases un- [illegible] itated by any [illegible] of the

Govt. to do so the Court shall have to adjudicate upon the merits of the claim sooner or later. If an order for sale is obtained by the judgment creditor with full knowledge of the claim of Govt., the fact that the court does not adjudicate upon the validity or otherwise of the claim before such order is passed will not affect the same.

I am to add that the Public Prosecutor who has a greater knowledge of the details of the case must be able to tackle with the situation in all the aspects in which it may be presented

V

by the Other Side
to the Court.

The enclosures received with your letter under refce are herewith returned.

I have &c

SA

For Fin.l Secy.

Obn

11/10/12

II/19/12 [illegible]

191

From

The Deputy Commissioner
Mysore District

To

The Secretary to Govt.
General & Revenue Depts

Dated 16th Dec 1912

Despatched 17th

Received

General No. 307.
No.

Enclosure No. 1

Submits information re execution proceedings no. 113 of 1911-12 on the file of the Sub-Judge, Mysore, Jois Tirumalachari v Chamappaji

DIARY No. 2177

12 13
G.F.

488-10
29

No. 307

Office of the Deputy Commissioner,
Mysore District,
Dated, Mysore, 16th December 1912.

From

K.Chandy Esquire., B.A.,
Deputy Commissioner,
Mysore District.

To

K.R.Sreenivasa Iyengar Esquire., M.A.,
Secretary to the Government of Mysore,
General and Revenue Departments.

Sir,

I have the honour to forward herewith for the information of Government a copy of letter No.206 dated 10-12-1912 received from the Public Prosecutor, Mysore, stating that in the Execution Case No.113 of 1911-12, Sub Court, Jois Tirumalachar vs Chamappaji Urs, the decree holder has admitted the claim preferred by the Palace Comptroller and expressed his willing--ness to get the properties of the Judgment-debtor sold subject also to the mortgage in favour of the Palace. He further intimates that the case stands posted to 7th January 1913.

I have the honour to be,
Sir,
Your most obedient Servant,

Assistant Commissioner,
For Deputy Commissioner,
(Absent from Head Quarters).
Mysore District.

H.V.T.

23/12/12

G.R.S. 26]

97 File No. 488-
Serial No. 30

Diary No. of letter replied to 2177

No. 3486

General and Revenue Secretariat
(97)
, the 19 .

Date of issue 23-12-12

Signed by W Hiriyannaiah

To

23-12-12

The Huzur Secretary
to H H the Maharaja of Mysore

Sir,

I am directed to forward for your information Copy of letter No. 307 of 16/12/1912 and its enclosure received from the Deputy Commissioner, Mysore Dt, in the matter of the Execution Case No. 113. of 1911-12 on the file of the Sub-Judge's Court, Mysore (Jois Thirumala ch. vs. Champpaji Urs.)

over.

Paper under disposal

Copy 23/12/12

SUBJECT.

Have etc.

For H Secretary

U.36 23/12/1912

I [illegible] 26 [illegible] G. F. [illegible]

105

Rev. Forests]

OFFICE OF THE CONSERVATOR OF FORESTS IN MYSORE,

No. [illegible] Dated Bangalore, [illegible] 19[illegible]

DIARY No...

Enclosures /

10/2-10/3
SECTION G.F.
[illegible] 488-10
[illegible] No. 31

FROM

RAI BAHADUR M. MUTHANNA, ESQ.,
Conservator of Forests in Mysore.

To K. R. Sreenivasa Iyengar Esquire M.A.
Offg: Secretary to the Government of
H. H. The Maharaja of Mysore.

SIR,

With reference to D. O. No 71 505/G.F. 488-10-6 dated the 3rd August 1911 stating that the Sandal revenue due to the Estate of the late Bakshi Mr. Basappaji Urs, should not be paid to any other party than Government without first obtaining orders therefor, I have the honour to forward herewith copy of the Hassan District Forest officer's docket No 193 dated the 11th instant and to request that early orders may be obtained and communicated to me in the matter.

I beg to remain,
Sir,
Your most obedient Servant,
M. Muthanna
Conservator of Forests in
Mysore.

GPB—1,000—10 9-09

Copy of docket No 193 from the District Forest Officer Hassan, to the Conservator of Forests in Mysore.

With reference to his No 4126 dated 23rd November 1912, has the honour to state that the only realizations were from Sandal removed from the lands of Mr Bukshi Basappaji Ursan that Rs 4065-12-7 is the proceeds of Sandal sold for the year 1912-13.

[illegible]

Conservator of Forests in Mysore

[illegible]

W/

G.R.S. 26]

Two copies

File No. 48870

Serial No. 32

Diary No. of letter replied to 2255

No. 3539

dy 27-12-12

General and Revenue Secretariat

(dy)

, *the* 19 .

To

The Conservator of Forests in Mysore.

Date of issue 27-12-12

Signed by W Hirt y [illegible]

Sir

With reference to your letter No. 5020 dy 23.12.1912 ~~giving Cover~~ Enclosing to Hassan Dt Forests Officer's docket No. 193 dy 11/12/1912 regarding the Sandal wood amounting to Rs 4065-12 ~~re~~ the ~~relative~~ revenue ~~realisations from the Sandal [illegible] removed from the Estates of the late Bakshi Basappaya~~ Ess., I am directed to request you to be so good as to cause

over.

SUBJECT.

Said amount to be credited, ~~[illegible]~~
it or credit to the loan account
of the late Bakshi Basappaji Urs.
in the Comptroller's office. The fact may then
be intimated to the D.C. Mysore St who is managing the
estate of the late Bhakshi on behalf of the Govt

I have etc

[signature]
For F.C. Secretary.

[illegible]
26/12

No 763540
[illegible] 27-12-12

Copy to Comptroller for information
By order.

For F.C. Secretary.

List of enclosures,

Copied by [signature] 26/12
Examined by

GPB—20,000—23-9-10

15 Bru

(104)

Office of the Conservator of Forests in Mysore.

No. 9871. Dated, Bangalore,.....26th May 1913.

From,

The Conservator of Forests in Mysore,

BANGALORE.

DIARY No. ~~6576~~ 4796

1912-1913

To,

The Financial Secretary,

Mysore Government.

Sir,

With reference to your letter No. Fl 3539/G.F.488-10 dated the 27th December 1912, I have the honour to state that out of the value of sandalwood collected from the estates of the late Bakshi Basappaji Urs and sold in November 1912, ~~and~~ the marginally noted amounts which were held in deposit in the District Treasury Bangalore, ~~and they~~ are now placed at the disposal of the District Forest Officer, Hassan, with instructions to credit the same to the Sub-head" Interest on loans to ~~Encumbered~~ Encumbered Jagirdhars" as requested by the Comptroller in his docket No. 7832/ Loans 1204 dated 19th May 1913, in accordance with the orders of Government after deducting Government dues, viz, Commission on sale proceeds, cost of collection and preparation etc.

Messrs Peirce Leslie and Co., Calicut,	Rs 251-5-3.
Messrs Volkart Brothers, Tellicherry,	Rs 3,631-9-11.
Total	3,882 - 15 - 2

I have the honour to be,
Sir,
Your most obedient servant,

[signature] 24.5

For Conservator of Forests in Mysore.

Rev. Forests]

OFFICE OF THE CONSERVATOR OF FORESTS IN MYSORE,

No. 743

Bangalore, dated ..... 22 July 1913.

Enclosures

DIARY No. 359

10/3-1914
SECTION G.F.
FILE No. 488 of 10
SERIAL No. 34

From

RAI BAHADUR M. MUTHANNA, ESQ.,
Conservator of Forests in Mysore.

To

The Financial Secretary,
Mysore Government,
BANGALORE.

SIR,

In continuation of this Office letter No. 9871 dated the 26th May 1913, regarding the value of sandalwood collected from the estates of the late Bakshi Basappaji Urs, I have the honour to state that the District Forest Officer, Hassan, in his docket No. 6 dated the 7th July 1913, reports that a sum of Rs 3,390-1-1 has been credited into the Hassan District Treasury under the head "Interest on loans to encumbered Jaghirdars".

I have the honour to be,
Sir,
Your most obedient servant,

M. Muthanna

Conservator of Forests in Mysore.

T.V.V.

GPB—1,000—7-3-13

from the public Prosecutor, Mysore, stating in the execution Case No 113 of 1911-12, Sub Court, (Jois Thirumala Char vs Chamappaji urs), the decree holder has admitted the claim preferred by the Palace Controller and has expressed his willingness to get the properties of the judgment - debtor sold subject also to the mortgage in favour of the palace and states that case stands posted to 7th January 1913.

30. To The Huzur Secretary. No 3486 Dy 23.12.12
Forwards for information Copy of letter No. 307 Dy 16.12.12 received with the Dy Commr, Mysore

31. From the Conservator of Forests in Mysore.
No 5020 Dy 23.12.12
Forwards Copy of Hassan Dt Forest officer's docket No 193 Dy 11.12.12 reporting that Rs 4065-12-7 are the realizations from the Sandal removed from Bakshi Basappaji urs's lands, & soliciting orders of Govt.

32. To The Conservator. No H 3539 Dy 27.12.12
Requests that the realisations may be credited to the loan account by book transfer in the Comptroller's office & that the fact intimated to the Dy Commr, Mysore Dt who is managing the mortgaged Estates
No H 3540 Dy 27.12.12
Copy to Comptroller

33. From the Conservator of Forests. No 9871 Dy 26.5.13.
States that the realizations from the sale of Sandalwood collected from the estates of the late Bakshi Basappaji urs are placed at the disposal of the Dt Forest officer, Hassan, for being credited to the loan account of the late Bakshi Basappaji urs in the Comptroller's office

34. From the Conservator of Forests in Mysore. No 743 Dy 22.7.13
States that the Dt Forest officer, Hassan Dt, reports that a Sum of Rs 3390-1-1 has been credited into the Hassan Dt Treasury under the head "Interest on loans to encumbered Jahaji Jaga".

20. To the Dy Commr, Mysore. No H4757 Dy 8.5.12
States that information required by the public prosecutor may be furnished from the Dy Commrs office etc.

21. From the offg. Dy Commr. Mysore. No 2 Dy 4.7.12
Forwards copy of the confidential note prepared by the public prosecutor Mysore in re the Suit Singamma vs Govt for such instructions orders as the Govt may be pleased to issue thereon, the Case being posted to 8th August 1912

22. D.O. 418 Dy 22.7.12
To the offg Dy Commr, Mysore dt.
Forwards a copy of the Govt Advocate's note on the points raised by the public prosecutor and requests him to forward it confidentially to the public prosecutor.

22(a) From the Dy Commr, Mysore. No 56 Dy 2/8/12
Forwards copy of letter from the public prosecutor Mysore soliciting instructions as to whether he has to oppose the application of the plaintiff praying for the sale of all the immovable properties of the late Mr Bakshi Basappaji Urs in the Civil Suit instituted by Jois Sheremalachar against Govt.

23. From the Dy Commr, Mysore. No 72 Dy 13.8.12
Requests that early instructions called for in respect of the Case of Jois Sheremalachar vs Govt may be furnished in as much as the Case has been posted to the 20th August 1912 and failure to put in a written statement before the Court on that date would result in the attached properties being ordered to be sold.

24. To the Dy Commr, Mysore dt. No H789 Dy 15.8.12
States that as Sheremalachar has admitted the rig

to priority of Govt over the mortgaged properties interests of the Govt are sufficiently protected and that no further action in the case appears to be necessary.

25. From the Dy Commr, Mysore District.
No 124 Dy 6.9.12.
Forwards petition of Singamma requesting that information as to who were the officers that constituted the Govt at the time of the transaction in connection with the ~~request~~ grant of loan to the late Mr Bakshi Basappaji Urs were made and requesting to be informed what information, if any, may be furnished.

26. To the Dy Commr, Mysore. No 2402 Dy 1.10.12
Informs him that the public prosecutor may be asked to oppose the petition of Singamma for reasons stated in the Govt Advocates' memorandum.

27. From the Dy Commr. Mysore Dt. No 171 Dy 1.10.12.
Forwards a letter from the public prosecutor, Mysore, asking for instructions in the matter of the execution of the decree obtained by Jois Thirumalachar against Mr. A Chamappaji Urs.

28 To the Dy Commr, Mysore Dt. No H 2795 Dy 12/11/12
States that in such cases the public prosecutor or other lawyer engaged on behalf of Govt should be asked to give his own opinion as to the line of defence to be taken; and that in this case it would be sufficient if the advocate appears in the Court and says that there is no money or interest that can be legally attached & leave the Court to decide.

29 From the Dy Commr, Mysore District
No 307. Dy 16.12.12
Forwards for information copy of letter Dy 10.12.12